

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY CLARK COLBY,)
)
 Plaintiff,)
)
 v.)
)
 DAVID L. WINN, et al.)
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 Defendants.)
)
)

Civil Action No. 05CV40124NG

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS**I. Introduction**

Petitioner Barry Clark Colby, Reg. No. 03901-036, is a federal inmate who is incarcerated at the Federal Medical Center in Devens, Massachusetts (FMC Devens).¹ Petitioner has filed this Petition for Writ of Habeas Corpus against the defendant, David Winn, Warden, FMC Devens (Warden Winn), pursuant to 28 U.S.C. § 2241. In it, Petitioner seeks to have an open criminal charge (based on a probation violation) from the State of Maine dismissed, the pending criminal warrant on that case rescinded, and immediate consideration by the Bureau of Prisons (BOP) for a Community Corrections Center (CCC) placement. See **Petition**, p.6.

Warden Winn moves to dismiss the Petition for failure to state a claim upon which relief can be granted for the following three reasons: First, Petitioner Colby failed to exhaust his

¹ On April 24, 2000, he was sentenced in the United States District Court for the District of Maine by the Honorable D. Brock Hornby, United States District Judge, to an 80 (eighty) month term of imprisonment with a 5 (five) year term of supervised release to follow. See **Document A**, Sentence Monitoring Computation Data, attached to the Declaration of Attorney Advisor Patrick Ward; **Document B**, Judgment and Commitment Order. On docket number 00-CR-14-P-H, Petitioner was convicted of Possession With Intent to Distribute Cocaine Base, a violation of Title 21 U.S.C. §841(a)(1) and 841(b)(1)(B). See **Document A; Document B**. Assuming Petitioner is granted all Good Conduct Time available to him under 18 U.S.C. § 3624 (b), his projected satisfaction date on this docket is November 10, 2005. In the event that all of his remaining Good Conduct Time is disallowed, his full term expiration date is September 19, 2006. See **Document A**.

available Administrative Remedies on the issue that is the subject of this habeas corpus petition.²

See Document C, Administrative Remedy History. See also, **Section III (A)**, *infra*.

Specifically, Petitioner failed to raise the issue of his pending Maine charge, his open Maine warrant, or his reconsideration for a CCC placement in any Administrative Remedy Request.

See Document C. Second, Petitioner's request for immediate CCC placement is not the proper subject of a habeas corpus petition, as he has no protected liberty interest in a CCC Placement and thus, is not entitled to the relief requested. Third, there is no longer any case or controversy before this Court as pertains to Warden Winn, and thus, the Petition is now moot. Specifically, the question of Petitioner's CCC placement is the only federal issue on the face of the Petition.

However, as a result of actions taken by the BOP in conjunction with the Lincoln County District Attorney's Office, Petitioner has now been approved for a pre-release placement to the Pharos House in Portland, Maine for October 11, 2005, a 30 day CCC placement. As such, there is no longer a live case or controversy and Petitioner's claim is now moot.

II. Factual Background

Petitioner's Detainer History / BOP CCC Placement Consideration.

Based upon records in the possession of the BOP, the following background indicates the detainer history relevant to Petitioner's prior and current eligibility for a pre-release CCC placement. Following Petitioner's April 24, 2000, federal sentence in the U.S. District Court for the District of Maine, he was designated to the Federal Correctional Institution at Ray Brook,

²Of the three issues raised in this Petition (probation violation dismissed, warrant rescinded, and BOP reconsideration of CCC placement), only the third is germane to the BOP as the BOP could not do anything about the other two issues. In other words, the BOP would not be able to dismiss Petitioner's open state charge for a probation violation or be the primary agency to have his state warrant rescinded.

New York (FCI Ray Brook) on June 1, 2000. See Document D, Inmate Admission-Release History. Subsequently, on or about June 15, 2000, staff in the Inmate Systems Management Department at FCI Ray Brook filed a Detainer Action Letter with the Division of Probation and Parole in Augusta, Maine. See Document E, June 15, 2000 Detainer Action Letter. This Letter sought clarification from the probation and parole division of the state of Maine on the possible probation violation of Petitioner because his Federal Presentence Report indicated that he was on probation on a Lincoln County, Maine docket when he committed his current federal offense. **Document E**. In this letter, the BOP sought information on the disposition of the Maine (state) case, and also sought information concerning whether Maine wished to have a detainer placed on Petitioner for its open case. A second attempt was made by FCI Ray Brook to contact the Maine Division of Probation and Parole on or about July 27, 2000. See Document F, July 27, 2000 Detainer Action Letter.

On January 10, 2002, Petitioner was re-designated and transferred to the FMC Devens. See Document D. Subsequent to his arrival at FMC Devens, staff in that institution's ISM Department submitted a Detainer Action Letter to the Maine Division of Probation and Parole on January 14, 2002, seeking information on the disposition of the prior Maine case and whether that state sought a detainer on Petitioner. See Document G, January 14, 2002 Detainer Action Letter. On or about February 13, 2002, the State of Maine Department of Corrections Regional Correctional Administrator responded with a letter addressed to FMC Devens ISM, wherein he enclosed a copy of a 1999 Warrant of Arrest for Petitioner and requested that a detainer be lodged against Petitioner. See Document H, February 13, 2002, Maine DOC Request for Detainer; **Document I**, August 1999 Warrant of Arrest. The 1999 Warrant was issued for a

probation violation on a 1987 state conviction and commanded that Petitioner be arrested and committed to county jail pending a hearing. **Document I**. It also commanded that no bail be allowed. Id.

Upon receipt of the 1999 Warrant and request for detainer, the FMC Devens ISM Department verified receipt of this information and prepared a Detainer Action Letter to the Maine Department of Corrections advising them of the filing of the detainer and of Petitioner's tentative projected release date (November 10, 2005). See Document J, February 19, 2002, Detainer Action Letter.

On each of Petitioner's five (5) Program Review Reports from January 2003 through November 2004, Petitioner was advised that he was not eligible for a CCC recommendation and would not be referred for a pre-release placement to a CCC due to the detainer that was pending from Maine DOC for his probation violation. See Documents K- O, Program Review Reports. Subsequently, on or about November 22, 2004, District Attorney Geoffrey Rushlau wrote to the ISM Department at FMC Devens and requested a withdrawal of the earlier filed detainer request. See Document P, November 22, 2004 Detainer Withdrawal Request. Within this letter, DA Rushlau indicated that although the detainer should be removed, the warrant would remain outstanding. Subsequent to receipt of the request to remove the detainer, FMC Devens ISM staff prepared another Detainer Action Letter on or about December 17, 2004, advising DA Rushlau that the detainer was removed. See Document Q, December 17, 2004 Detainer Action Letter.

After the detainer removal, Petitioner's Unit Team reviewed his case and recommended Petitioner for a CCC placement by way of an Institutional Referral on or about February 9, 2005. See Document R, February 9, 2005, Institutional Referral for CCC Placement. This form

indicated that although DA Rushlau had requested the removal of the detainer so that Petitioner could get an earlier release to CCC placement, the warrant remained outstanding. **Document R**, ¶ 11. Based upon this referral, FMC Devens approved a CCC placement for Petitioner to the Pharos House CCC in Portland, Maine for May 20, 2005. See Document S, April 18, 2005 Transfer Order. Prior to Petitioner's placement, however, the Pharos House CCC, as well as the Community Corrections Manager, were notified that upon Petitioner's arrival at the CCC in Maine, he would be arrested on the open warrant. See Document T, May 2005 Pharos House and CCM e-mails. This would result in Petitioner being unable to complete his federal sentence, which is due to expire on November 10, 2005. Consequently, as a result of the open warrant, Petitioner's placement to the CCC in Maine was removed. See Document U, May 17, 2005, Daily Log.

Subsequent to Petitioner filing this suit and naming DA Rushlau as a Respondent, the BOP communicated with the DA on the status of the open warrant. As a result of that communication, a "Motion To Recall Arrest Warrant And Issue Summons" was filed by DA Rushlau in the Lincoln County Superior Court in Maine on the pending probation violation. See Document V, August 2005 Motion To Recall Warrant. This motion was granted on August 31, 2005, and a summons to appear was issued on September 2, 2005, for Petitioner to appear for a hearing on his probation violation on December 1, 2005, at 8:30 am. See Document W, September 2005 Summons. Consequently, Petitioner became eligible again for CCC placement consideration.

With the September 2, 2005, granting of DA Rushlau's Motion to Recall Arrest Warrant and Issue Summons, FMC Devens immediately initiated a reconsideration of Petitioner's

CCC placement and processed an updated Institutional Referral for CCC placement. See Document Y, September 2005 Institutional Referral for CCC Placement. Based upon this updated referral, **Petitioner was approved for a pre-release placement to the Pharos House in Portland, Maine, for October 11, 2005**, a 30 day CCC placement. See **Document Z**, Inmate Profile. (Emphasis supplied.)

III. Legal Argument

A. As Petitioner Has Failed to Exhaust His Administrative Remedies, This Petition Should Be Dismissed.

Petitioner's request for reconsideration of a CCC placement by FMC Devens should be dismissed because he failed to exhaust his available administrative remedies on this issue,³ precluding review by the courts. Moscato v. Federal Bureau of Prisons, 98 F.3d 757 (3d Cir. 1996). Exhaustion of Administrative Remedies is an affirmative defense and is properly raised in a motion to dismiss. See Casanova v. Dubois, 304 F.3d 75, 77 n.3 (1st Cir. 2002).

The Prison Litigation Reform Act of 1995, as amended 42 U.S.C. 1997e (a) (PLRA), requires a prisoner to exhaust "such administrative remedies as are available" before suing over prison conditions. Porter v. Nussle, 122 S.Ct. 983 (2002); Booth v. Churner, 121 S.Ct. 1819 (2001). In Booth v. Churner, 532 U.S. 731, 121 S.Ct. 1819, (2001), a unanimous Supreme Court held that Congress mandated completion of any prison administrative remedy process capable of addressing the inmate's complaint and providing some form of relief, "irrespective of the forms

³Petitioner raises three issues in this Petition: a request for dismissal of state charges from Maine on a probation violation for a prior state case, a request to have the open warrant on his pending probation violation rescinded, and a request for the BOP to reconsider him and place him in a CCC, if still available. On the issue of exhaustion, the BOP would have no remedy on the first two issues, as they involve the state of Maine and don't even pertain to federal issues. It is only the third issue of CCC placement consideration that even pertains to the BOP.

of relief sought and offered through administrative avenues.” Id. at 1825. The administrative remedy system at issue in the case was nearly identical to the three-level system in use in the federal prison system. See Booth v. Churner, 121 S.Ct. at 1821. The exhaustion doctrine “enables the agency to develop a factual record, to apply its expertise to the problem, to exercise its discretion, and to correct its own mistakes, and is credited with promoting accuracy, efficiency, agency autonomy, and judicial economy.” Christopher W. V. Portsmouth Sch. Comm., 877 F.2d 1089, 1094 (1st Cir. 1989)(citing McKart v. United States, 395 U.S. 185, 194 (1969)). See also Moscato v. Federal Bureau of Prisons, 98 F.3d 757, 761-762 (3d Cir. 1996).

With respect to habeas petitions, it is well settled that failure to exhaust each issue at all stages of the administrative remedy system is a proper basis for dismissal. Moscato v. Federal Bureau of Prisons, 98 F.3d 757 (3d Cir. 1996); United States v. Brann, 990 F.2d 98 (3d Cir. 1993); Gonzalez v. Perrill, 919 F.2d 1 (2d Cir. 1990); Arias v. United States Parole Commission, 648 F.2d 196 (3d Cir. 1981); Soyka v. Alldredge, 481 F.2d 303 (3d Cir. 1973); DeVincent v. United States, 587 F.Supp. 494 (E.D.Va. 1984), aff'd, 746 F.2d 1471 (4th Cir.), cert. denied, 470 U.S. 1055 (1985).

Under the Bureau of Prisons Administrative Remedy Program, federal inmates “may seek formal review of an issue which relates to any aspect of their confinement. . .” 28 C.F.R. § 542.10. This Program, 28 C.F.R. §§ 542.10 et seq., outlines a three-level grievance procedure to resolve prisoner complaints, and federal inmates must adhere to this procedure before filing lawsuits related to conditions of confinement. In order to exhaust all process under the administrative remedy procedure for inmates, an inmate must first attempt to informally resolve the dispute with institution staff. 28 C.F.R. § 542.13. If informal resolution efforts fail, the

inmate may raise his or her complaint to the Warden of the institution in which he or she is confined, within 20 calendar days of the date that the basis of the complaint occurred. 28 C.F.R. § 542.14. If the Warden denies the administrative remedy request, the inmate may file an appeal with the Regional Director within 20 calendar days of the date of the Warden's response. 28 C.F.R. § 542.15. If the Regional Director denies the appeal, the inmate may appeal that decision to the General Counsel of the Federal Bureau of Prisons within 30 calendar days from the date of the Regional Director's response. See 28 C.F.R. § 542.15. The administrative remedy process is not considered to be "exhausted" until an inmate's final appeal is denied by the Bureau of Prisons General Counsel.⁴

Only after the inmate has pursued his grievance through each of the three levels has he exhausted the administrative remedies available to him. See, e.g., Rogers v. United States, 180 F.3d 349, 357-58 (1st Cir. 1999), cert. denied, 528 U.S. 1126 (2000) (noting that "it is well-established that a request for credit for prior custody . . . must be made, in the first instance, to the Attorney General through the Bureau of Prisons upon imprisonment after sentencing. Once administrative remedies are exhausted, see 28 C.F.R. § 542.10-542.16, prisoners may then seek judicial review of any jail-time credit determination."); Irwin v. Hawk, 40 F.3d 347, 349 n.2 (11th Cir. 1994). After a prisoner has exhausted administrative remedies, if he is not satisfied with the prison's response, he may then seek relief from federal district court. Id.

The prison regulations "set out the procedures that prisoners must pursue prior to seeking

⁴Pursuant to 28 C.F.R. § 542.14, inmates raising "sensitive" issues as well as inmates challenging disciplinary actions of a discipline hearing officer (DHO), are excused from filing administrative remedies at the institutional level. They may access the administrative remedy system through submission of a Regional Administrative Remedy Appeal.

relief in a district court," and make clear that "exhaustion of administrative remedies is jurisdictional." United States v. Morales-Morales, 985 F. Supp. 229, 231 (D.P.R. 1997) (internal quotations and citations omitted). See also 42 U.S.C. § 1997e(a) ("No action shall be brought . . . under [42 U.S.C. §1983] or any other Federal law by [an incarcerated prisoner] . . . until such administrative remedies as available are exhausted.") Thus, if an inmate fails to exhaust available administrative remedies, the Court lacks subject matter jurisdiction over his civil action and it must be dismissed. See, e.g., United States v. Flanagan, 868 F.2d 1544, 1546-47 (11th Cir. 1989) (prisoner's claim that his pre-sentence custody should have been credited against his sentence was not properly before the court because prisoner failed to exhaust administrative remedies available through federal prison system before seeking judicial review).

In the ordinary course of business, computerized indexes of all administrative requests and appeals filed by inmates are maintained in the Bureau of Prisons computerized data base so rapid verification may be made as to whether an inmate has exhausted the administrative remedy process on a particular issue. Also, hard copies of all administrative remedies that are filed and responded to through the Institution, Regional Office, and Central Office levels are maintained at the Institution, as well as at the Northeast Regional Office, so a review of the issues raised in each administrative remedy could be made.

The BOP's review of the SENTRY administrative remedy records indicates that Petitioner Colby has failed to exhaust his available administrative remedies concerning this (CCC placement) issue. See Document C, Administrative Remedy History. Indeed, Petitioner has never raised the issue of being reconsidered for his CCC placement to Maine, following the revocation of that placement in May. Instead, Petitioner has circumvented the purpose of the

administrative remedy process by bringing his complaint to the courts before the Bureau had an opportunity to fully address and exhaust the issue.⁵ Petitioner has thus failed to exhaust his administrative remedies pursuant to the requirements set forth in 28 C.F.R. §§542.10-542.16. Accordingly, the petition should be dismissed for failure to exhaust administrative remedies.⁶

B. Petitioner's Request For Immediate CCC Placement Is Not The Proper Subject Of A Habeas Corpus Petition, As He Is Not Entitled To The Relief Requested Because He Has No Protected Liberty Interest In A CCC Placement.

With regard to Petitioner's request to be placed into a CCC immediately, he is not entitled to collateral relief pursuant to 28 U.S.C. § 2241 or § 2255. Section 2241 provides that a

⁵I would argue that this is exactly the case herein. Upon viewing the inmate's issues raised in this petition, the BOP contacted the District Attorney and through mutual cooperation, was able to have the warrant rescinded. As a result of that motion by the DA, the warrant is now dismissed and Petitioner can be considered for CCC placement. The BOP has immediately reviewed that and is currently processing a second CCC placement referral.

⁶ The failure to exhaust administrative remedies is an appropriate basis for dismissal of a petitioner for writ of habeas corpus. See e.g., Gonzalez v. Perrill, 919 F.2d 1 (2d Cir. 1990); United States v. Brann, 990 F.2d 98, 1003-1004 (3d Cir. 1993); Lyons v. USM, 840 F.2d 202 (3d Cir. 1988); Veteto v. Miller, 794 F.2d 98 (3d Cir. 1986); Arias v. United States Parole Commission, 648 F.2d 196 (3d Cir. 1981); Soyka v. Alldredge, 481 F.2d 303 (3d Cir. 1973). The policy reasons underlying the exhaustion doctrine in habeas cases is well analyzed in Arias:

We adhere to the exhaustion doctrine for several reasons:

(1) judicial review may be facilitated by allowing the appropriate agency to develop a factual record and apply its expertise, (2) judicial time may be conserved because the agency might grant the relief sought, and (3) administrative autonomy requires that an agency be given an opportunity to correct its own errors. United States ex rel. Marrero v. Warden, Lewisberg Penitentiary, 483 F.2d 656, 659 (3d Cir. 1973) rev'd on other grounds, 417 U.S. 653, 94 S.Ct. 2532, 41 L.Ed. 2d 383 (1974).

Arias v. United States Parole Commission, 648 F.2d. 196 (3d Cir. 1981).

For this reason, the Petition should be dismissed. Moscato v. Federal Bureau of Prisons, 98 F.3d 757 (3d Cir. 1996).

writ of habeas corpus may be granted to a prisoner, inter alia, “in custody in violation of the Constitution or laws or treaties of the United States.” Id. § 2241(c)(3). Section 2255 provides that:

[a federal prisoner] claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court in which the sentence was imposed to vacate, set aside, or correct

28 U.S.C. § 2255.

Petitioner does not claim that he is unlawfully in BOP custody. Nor does he claim the right to be released from that custody. Likewise, he does not contend that his sentence was imposed in violation of federal law or the Constitution, that the court lacked jurisdiction to impose the sentence, or that his sentence exceeds the maximum authorized by law. And, finally, he does not argue – nor could he – that BOP lacks the authority to choose the facility in which he will serve his term of imprisonment. See 18 U.S.C. § 3621(b) (“The Bureau of Prisons shall designate the place of the prisoner’s imprisonment.”); see also, e.g., United States v. Serafini, 233 F.3d 758, 778 n.23 (“A district court has no power to dictate or impose any place of confinement for the imprisonment portion of the sentence.”); accord United States v. Williams, 65 F.3d 301, 307 (2d Cir. 1995). Cf. McKune v. Lile, 122 S. Ct. 2017, 2027 (2002) (“It is well settled that the decision where to house inmates is at the core of prison administrators’ expertise.”).

Rather, Petitioner’s claim is that the BOP has denied his placement to a halfway house due to a pending criminal charge and open warrant on a prior state case. Because the BOP has the discretion whether to house Petitioner in a CCC, Petitioner cannot establish that his

continued placement in a federal prison facility is “in violation of the Constitution or laws or treaties of the United States,” as required for collateral relief. 28 U.S.C. § 2441(c)(3); see also 28 U.S.C. § 2255. In Petitioner’s case, the Court sentenced him to a term of imprisonment and Petitioner’s subjective expectation, no matter how reasonable, that he would be housed in a CCC does not entitle him to collateral relief under Sections 2241 or 2255.

It is well established that federal prisoners do not have a protected liberty interest in halfway house placement, and the BOP has complete and absolute discretion in the determination of halfway house placement. United States v. Laughlin, 933 F.2d 786 (9th Cir. 1991); United States v. Jalili, 925 F.2d 889 (6th Cir. 1991); Pugliese v. Nelson, 617 F.2d 916, 923-925 (2d Cir. 1980); 18 U.S.C. §§ 4081, 4082. See Fernandez-Collado v. INS, 644 F.Supp. 741 (D.Conn. 1986), aff’d, 857 F.2d 1461 (2d Cir. 1987); Freitas v. Ault, 109 F.3d 1335, 1337 (8th Cir. 1997). Cf. Paulino v. Connery, 766 F.Supp. 209 (S.D.N.Y. 1991). The BOP has discretion to determine whether an inmate is eligible for early release. Lopez v. Davis, 531 U.S. 714, 121 S.Ct 714 (2001); 18 U.S.C. § 3621(e)(2)(B).

Moreover, there is no right in the Constitution for an inmate to be assigned to a particular institution or program. Olim v. Wakinekona, 461 U.S. 238 (1983); Meachum v. Fano, 427 U.S. 215 (1976); Young v. Quinlan, 960 F.2d 351, 358 n. 16 (3d Cir. 1992); Pugliese v. Nelson, 617 F.2d 916 (2d Cir. 1980); Lott v. Arroyo, 785 F.Supp. 508 (E.D.Pa. 1991) (Constitution does not confer on state inmate right to participate in pre-release program). In Moody v. Daggett, 429 U.S. 78 (1976), the Supreme Court addressed a challenge to the impact of a detainer on prison programming. The Court noted:

We have rejected the notion that every state action carrying adverse consequences for prison inmates automatically activates a due process right. In Meachum v. Fano,

417 U.S. 215... (1976), for example, no due process protections were required upon the discretionary transfer of state prisoners to a substantially less agreeable prison, even where that transfer visited a "grievous loss" upon the inmate. The same is true of prisoner classification and eligibility of rehabilitative programs in the federal system. Congress has given federal prison officials full discretion to control these conditions of confinement, 18 U.S.C. §4081, and petitioner has no legitimate statutory or constitutional entitlement sufficient to invoke due process.

429 U.S. at 88 n.9. In Pugliese v. Nelson, 617 F.2d 916, 923-925 (2d Cir. 1980), the Second Circuit examined the statutes in effect in 1981 applicable to institutional placement and community programs, 18 U.S.C. §§ 4081 and 4082, and found that the statutes vested in the Attorney General "complete and absolute discretion with respect to the incarceration, classification, and segregation of lawfully convicted prisoners." 617 F.2d at 923. The authority of the Attorney General under these statutes has been delegated to the Federal BOP. 28 C.F.R. § 0.96.

Federal law provides for the placement of federal prisoners in non-prison sites such as halfway houses shortly before the conclusion of their sentences to allow the prisoners an opportunity to adjust to the community prior to their release. This "pre-release custody" is governed by 18 U.S.C. § 3624(c), which provides to the extent practicable that such placement will take place during the last ten percent of a prisoner's sentence, not to exceed six months.

Petitioner Colby now seeks pre-release CCC placement pursuant to Title 18, United States Code, § 3624(c), entitled "Pre-release Custody". Specifically, Petitioner seeks immediate assignment to a halfway house, "subject to availability and his good conduct..." See Petition, p.6. Petitioner's argument in this matter appears to rest on his complaints against the State of Maine and the District Attorney's Office in Lincoln, County. Petitioner is fully aware that this open charge and warrant on his prior state case has prevented his placement to a BOP

CCC placement. This was apparent in all of his Program Review Reports from January 2003 through November 2004. See Documents K - O.

While Petitioner acknowledges that any such CCC placement would be contingent upon availability and thus, that his arguments would need to be based on a statutory right to pre-release community custody, he fails to adhere to this. Although the statute appears to be mandatory, as asserted by the Petitioner, it is clear that the statute is actually permissive and that no such statutory right is found. Specifically, Title 18, U.S.C. §3624(c), states that:

The Bureau of Prisons **shall, to the extent practicable, assure** that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 per centum of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for the prisoner's re-entry into the community. The authority provided by this subsection may be used to place a prisoner in home confinement. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

(Emphasis supplied.) It is clear that this statute gives the BOP the discretion to allow a prisoner to serve a portion of his sentence in a facility “that will afford the prisoner a reasonable opportunity to adjust to and prepare for his re-entry into the community.” It does not require that a prisoner be afforded a period of time in such a facility or “that all prisoners participate in such a program, but only do so if practicable.” United States v. Restrepo, 999 F.2d 640, 645 (2nd Cir.), cert denied, 510 U.S. 954 (1993). Nor does this statutory provision “mandate that all prisoners pass through a community treatment center en route to free society.” United States v. Laughlin, 933 F.2d 786, 789 (9th Cir. 1991).

Under the present statutes, 18 U.S.C. §§3621 - 3624 (1987), the discretion to designate the place of incarceration (§ 3621) and to determine if a prisoner may participate in community programs (§§ 3622 and 3624(c)) has been retained and specifically conferred in the BOP. United

States v. Laughlin, 933 F.2d 786 (9th Cir. 1991). The placement of an inmate in a halfway house is an outgrowth of the Bureau's broad discretion of determining the location of incarceration.

United States v. Jalili, 925 F.2d 889 (6th Cir. 1991). The Bureau of Prisons is vested with broad discretion in deciding whether a prisoner is to be assigned to a community program. See Fernandez-Collado v. INS, 644 F.Supp. 741 (D.Conn. 1986), aff'd, 857 F.2d 1461 (2d Cir. 1987). Cf. Paulino v. Connery, 766 F.Supp. 209 (S.D.N.Y. 1991).

The language of Section 3624(c) permits the Bureau of Prisons, "to the extent practicable," place a prisoner in a halfway house; it does not mandate a CCC placement for any prisoner. Additionally, the Bureau of Prisons has issued a program statement, which is an internal agency guideline, for addressing pre-release community custody requests. Specifically, Program Statement 7310.04, entitled Community Corrections Center (CCC) Utilization and Transfer Procedures (December 16, 1998), addresses CCC referrals and procedures. See Document X, PS 7310.04 Community Corrections Center (CCC) Utilization and Transfer Procedure (in relevant part). This internal agency guideline, which is akin to an "interpretive rule" that "does not require notice and comment," Shalala v. Guernsey Memorial Hospital, 514 U.S. 87, 99 (1995), is still entitled to some deference, cf. Martin v. Occupational Safety and Health Review Comm's, 499 U.S. 144 (1991), since it is a "permissible construction of the statute," Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843 (1984). See Reno v. Koray, 515 U.S. 50 (1995). In this case, the program statement is permeated with discretionary language.

Within PS 7310.04, it clearly indicates that a limit on eligibility for a CCC referral is an inmate with unresolved pending charges or detainers, which could lead to arrest, conviction, or

confinement. See Document X, at pp. 10-11, Section 10(f). It follows then, that Petitioner Colby would be denied a CCC placement because of the open probation violation and open warrant pending against him from the State of Maine, as that is within the discretion of the BOP to deny Petitioner pre-release CCC placement.

In the instant case, this is even more apparent due to the effort to resolve the detainer. Following the November 2004 removal of the detainer by the District Attorney, the BOP initiated an Institutional Referral for CCC Placement and recommended Petitioner for a placement to the Pharos House in Maine. See Document R. It was only after the effects of the open warrant became apparent (i.e., Petitioner's likely arrest and detention), that Petitioner's CCC placement was removed. See Documents T. Therefore, the BOP, through its continued effort to review Petitioner's case and communicate with the State of Maine on this open charge, had "to the extent practicable," considered him for pre-release placement initially.

Furthermore, following Petitioner's filing of this action and communications between the BOP and the DA in Maine, which resulted in the rescission of the open warrant, the BOP again considered Petitioner for CCC placement "to the extent practicable." Following notice to the BOP of the removal of the open warrant from Maine, Petitioner's Unit Team immediately initiated a reconsideration of Petitioner for a pre-release placement and processed a second Institutional Referral for CCC Placement. See Document Y, September 2005 Institutional Referral for CCC Placement form. As a result of this reconsideration, Petitioner is now approved for a pre-release CCC placement to the Pharos House in Portland, Maine, for October 11, 2005. See Document Z, Inmate Profile.

Therefore, pursuant to the above, as Petitioner has no entitlement to CCC placement, no

protected liberty interests cognizable on federal habeas review has been implicated. Petitioner is not entitled to collateral relief through a habeas corpus petition as he does not claim that he is unlawfully in BOP custody, nor does he contend that his sentence was imposed in violation of federal law or the Constitution, that the court lacked jurisdiction to impose the sentence, or that his sentence exceeds the maximum authorized by law. Accordingly, Petitioner is not, as a matter of law, entitled to relief under § 2241 or § 2255. Finally, since the denial of pre-release community custody does not impose an “atypical and significant hardship on the [Petitioner] in relation to the ordinary incidents of prison life,” Sandin v. Conner, 515 U.S. 472 (1995), no liberty interest is implicated.

It is clear that the BOP maintains the authority to determine the Petitioner’s place of confinement; that the pre-release custody statute is not mandatory; that the BOP exercised its discretion in accordance with the statute and regulations which resulted in the removal of Petitioner’s initial placement due to the open warrant; that the BOP again properly exercised its discretion and initiated a second consideration of Petitioner after the removal of the warrant, which resulted in a new CCC placement date; and regardless, Petitioner does not have a protected liberty interest at stake. For all of these reasons, the petition must be denied.

C. Petitioner’s Claim is Moot.

Petitioner’s three requests for relief within this Petition pertain solely to the issue of his pending probation violation in the State of Maine on his prior state offense. Petitioner asks that this Court order the pending charge against him in the State of Maine be dismissed, that it order the outstanding warrant for his arrest on the pending state charge be rescinded, and that, subject to availability, the BOP reconsider him for a CCC placement. See Petition, p.6. Because of the

recent communication between the BOP and the District Attorney's Office in Lincoln County, Maine, these issues have been resolved to the degree that there is no longer a case or controversy before this Court.

The Constitution confines the federal courts' jurisdiction to those claims which embody actual "cases" or "controversies." U.S. Const. art. III, § 2, cl. 1.⁷ When a case is moot--that is, when the issues presented are no longer live or when the parties lack a legally cognizable interest in the outcome --a case or controversy ceases to exist, and dismissal of the action is compulsory. See City of Erie v. Pap's A. M., 529 U.S. 277, 287 (2000); United States Parole Comm'n v. Geraghty, 445 U.S. 388, 395-96 (1980); R.I. Ass'n of Realtors v. Whitehouse, 199 F.3d 26, 34 (1st Cir.1999).

The crux of Petitioner's complaint is that his pending state probation violation charge had been continued numerous times and he alleges a violation of his state speedy trial rights. See **Petition**, pp.2, 4-6. The basis for filing this federal habeas action appears to be that the result of this open state charge and open warrant for his arrest is that the BOP has refused to place him in a pre-release CCC placement at the Pharos House in Portland, Maine. This CCC placement appears to be the only federal issue on the face of this petition. In light of Petitioner's situation, and as a result of this issue first being brought to the attention fo the BOP through the filing of this action, the BOP has contacted the Lincoln County District Attorney's Office and, as a result of their cooperation in addressing Petitioner's situation, a motion was filed and granted on the existing probation violation wherein the open warrant for Petitioner's arrest has been rescinded

⁷This requirement must be satisfied at each and every stage of the litigation. Spencer v. Kemna, 523 U.S. 1, 7 (1998).

and a summons to appear issued instead. As a result of this effort, Petitioner was again eligible for CCC placement consideration. FMC Devens immediately initiated a reconsideration of Petitioner's CCC placement and processed an updated Institutional Referral for CCC placement. See Document Y, September 2005 Institutional Referral for CCC Placement. As a result of this updated referral, Petitioner has now been approved for a pre-release placement to the Pharos House in Portland, Maine, for October 11, 2005, a 30 day CCC placement. See Document Z, Inmate Profile. Based upon this change in status, Petitioner has received the relief which he appears to have sought.⁸ As such, there is no longer a live case or controversy. The claim has become moot. See, Bailey v. Southerland, 821 F.2d 277, 278 (5th Cir.1987) ("By his section 2241 petition, Bailey seeks expungement of the disciplinary reports and restoration of the lost statutory good time and of the meritorious good time that was withheld from August 1985. The main thrust of Bailey's petition is to be released from his confinement. Because Bailey was released in April 1986, however, this court can no longer provide him with that relief."); Zichko v. Idaho, 247 F.3d 1015, 1019 (9th Cir.2001) ("The general rule concerning mootness has long been that a petition for habeas corpus becomes moot when a prisoner completes his sentence before the court has addressed the merits of his petition.") (citation omitted). See also, generally, County of Los Angeles v. Davis, 440 U.S. 625, 631-34 (1979); Powell v. McCormack, 395 U.S. 486, 496-97 (1969); Cruz v. Farquharson, 252 F.3d 530, 533 (1st Cir.2001); Thomas R.W. v. Mass. Dep't of Educ., 130 F.3d 477, 479 (1st Cir.1997).

⁸Although there remains to be the issue of having the probation violation charge completely dismissed, it is not within the jurisdiction of this Court to grant such relief on an open state case.

IV. Conclusion

As fully detailed *supra*, the Petition should be dismissed based upon Petitioner Colby's failure to exhaust his administrative remedies and on mootness of the issues, or in the alternative, if this Court were to reach the merits, as a matter of law he was not entitled to a pre-release CCC placement because the BOP has the discretion and is within policy to deny Petitioner a placement. Because of the foregoing, Respondent requests that this Court dismiss the instant Petition pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted, or, in the alternative, pursuant to Fed. R. Civ. P. 56 for judgment as a matter of law.

Respectfully submitted,

DEFENDANT DAVID WINN,
WARDEN, FMC DEVENS,

By his attorney,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Gina Y. Walcott-Torres
Gina Y. Walcott-Torres
Assistant United States Attorney
John Joseph Moakley U.S. Courthouse
One Courthouse Way, Suite 9200
Boston, Mass. 02110
617-748-3369

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY COLBY,)	
Petitioner,)	
)	
)	C.A. No. 05-40124-NG
v.)	
)	
DAVID WINN, Warden)	
Respondent.)	
)	
)	

DECLARATION OF PATRICK W. WARD

I, Patrick Ward, hereby make the following declaration:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons, at the Federal Medical Center in Devens, Massachusetts (FMC Devens), as an Attorney Advisor. The legal office, from which I am located, is the Consolidated Legal Center - Devens. I have been employed at this position since approximately March 24, 2002.
2. As an Attorney Advisor, I have access to numerous records maintained in the ordinary course of business at FMC Devens, as well as other institutions, regarding federal prisoners, including, but not limited to, documentary records, Judgment and Commitment files, and computerized records maintained on the Bureau of Prisons computerized data base, SENTRY.
3. I have access to the various databases and files concerning administrative remedy claims filed pursuant to the Administrative Remedy Program, which are maintained by the Bureau of Prisons in the ordinary course of business. In particular, I have access to SENTRY, which maintains a record of all of the administrative remedies filed by an inmate, the dates thereof, and the dispositions. These records reflect every administrative remedy claim filed by an inmate in the Bureau of Prisons, while housed in any federal institution of the Bureau of Prisons.
4. All Administrative Remedy Requests filed by Bureau of Prisons inmates are logged into the Bureau's SENTRY database. I can retrieve information from this database which details the requests that each inmate has filed.
5. The Bureau of Prisons has established an administrative remedy procedure whereby inmates can seek formal review of any complaint regarding any aspect of their imprisonment. Petitioner had available to him the four step procedures set forth in the BOP's Administrative Remedy Program. See 28 C.F.R. § 542. The BOP regulations provide "a process through which inmates may seek formal review of an issue which relates to any aspect of their


confinement... if less formal procedures have not resolved the matter.” 28 C.F.R. § 542.10. In accordance with the BOP’s Administrative Remedy Program, an inmate shall first attempt informal resolution of his complaint by presenting the issue informally to staff, and staff must attempt to resolve the issue. See 28 C.F.R. § 542.13(a). If the complaint cannot be resolved informally, the inmate may submit a formal written Administrative Remedy Request to the Warden, on a designated form, within twenty days of the event that triggered the inmate’s complaint. 28 C.F.R. § 542.14(a). If the inmate’s formal request is denied, the inmate may submit an appeal to the appropriate Regional Director of the BOP, within twenty calendar days of the date of the Warden signed the response. 28 C.F.R. § 542.15(a). A negative decision from the Regional Director may in turn be appealed to the General Counsel’s office (in the Central Office) within thirty calendar days of the date the Regional Director signed the response. Id. No administrative remedy appeal is considered to have been fully exhausted until considered by the Bureau of Prisons’ Central Office. 28 C.F.R. §§ 542.14-542.15. This Program is available to inmates confined at the Federal Medical Center in Devens and would include any issues surrounding pre-release CCC placement determinations.

6. On September 12, 2005, I ran a SENTRY search to determine if inmate Barry Clark Colby, Reg. No. 03901-036, had filed any Administrative Remedies. A review of his Administrative Remedy Record revealed that he has failed to utilize the administrative remedy process to file any remedy submission on the issues presented in this Petition or any other matter. He has thus failed to exhaust the administrative remedy process by filing this habeas petition prior to filing his administrative remedies. A true and accurate copy of the Administrative Remedy Generalized Retrieval for Petitioner Barry Clark Colby is attached as **Document C**.
7. In an attempt to investigate Petitioner’s claims after receipt of this Petition, I contacted District Attorney Rushlau in Lincoln County, Maine to discuss the status of the pending probation violation and open warrant on Lincoln County Superior Court Criminal Action Docket Number 87-481. District Attorney Rushlau was more than cooperative with resolving the issue of the open warrant and on or about August 29, 2005, filed a “Motion To Recall Arrest Warrant And Issue Summons” on Petitioner’s pending Lincoln County case. A true and accurate copy of the August 2005 Motion to Recall Arrest Warrant is attached as **Document V**. Subsequently, on or about August 31, 2005, the Court Granted that motion, which recalled the warrant and issued a summons for Petitioner to appear in Lincoln County Superior Court on December 1, 2005 at 8:30 am.
8. Following the removal of the open warrant, Petitioner’s Unit Team was then able to reconsider him for a pre-release placement and subsequently processed a second Institutional Referral for CCC Placement. A true and accurate copy of the September 2005 Institutional Referral for CCC Placement is attached as **Document Y**. Based upon this new referral, Petitioner has now been approved for a pre-release placement to the Pharos House in Portland, Maine for October 11, 2005, a 30 day CCC placement. A true and accurate copy of Petitioner’s Inmate Profile is attached as **Document Z**.

9. Attached hereto as exhibits, please find true and correct copies of the following documents relating to Petitioner Barry Clark Colby, Reg. No. 03901-036:
- A. Sentence Monitoring Computation Data;
 - B. Judgment and Commitment Order;
 - C. Administrative Remedy History;
 - D. Inmate Admission / Release History;
 - E. June 15, 2000 Detainer Action Letter;
 - F. July 27, 2000 Detainer Action Letter;
 - G. January 14, 2002 Detainer Action Letter;
 - H. February 13, 2002 Maine Department of Corrections Request for Detainer;
 - I. August 1999 Warrant of Arrest;
 - J. February 19, 2002 Detainer Action Letter;
 - K. January 2003 Program Review Report;
 - L. July 2003 Program Review Report;
 - M. January 2004 Program Review Report;
 - N. June 2004 Program Review Report;
 - O. November 2004 Program Review Report;
 - P. November 22, 2004 Detainer Withdrawal Request Letter;
 - Q. December 17, 2004 Detainer Action Letter;
 - R. February 2005 Institutional Referral for CCC Placement;
 - S. April 2005 Transfer Order;
 - T. May 2005 Pharos House / Community Correction Office E-mails;
 - U. May 2005 Daily Log / CCC Rescinded;
 - V. August 2005 Motion To Recall Warrant;
 - W. September 2005 Summons;
 - X. Program Statement 7310.04, Community Corrections Center (CCC) Utilization and Transfer Procedure (relevant part);
 - Y. September 2005 Institutional Referral for CCC Placement;
 - Z. Inmate Profile.

I declare the foregoing is true and correct to the best of my knowledge and belief, and given under penalty of perjury pursuant to 28 U.S.C. § 1746.

Executed this 19th day of September, 2005



Patrick W. Ward
Attorney Advisor
Consolidated Legal Center-Devens

Exhibit A

DEVEN 540*23 *	SENTENCE MONITORING	*	09-12-2005
PAGE 001 *	COMPUTATION DATA	*	09:51:20
	AS OF 09-12-2005		

REGNO.: 03901-036 NAME: COLBY, BARRY CLARK

FBI NO.....: 865697G	DATE OF BIRTH: 03-22-1950
ARS1.....: DEV/A-DES	
UNIT.....: J CC	QUARTERS.....: J01-126U
DETAINERS.....: NO	NOTIFICATIONS: NO

PRE-RELEASE PREPARATION DATE: 05-10-2005

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 11-10-2005 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: MAINE
DOCKET NUMBER.....: 00-CR-14-P-H
JUDGE.....: HORNBY
DATE SENTENCED/PROBATION IMPOSED: 04-24-2000
DATE COMMITTED.....: 06-01-2000
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	\$100.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE....: 381
OFF/CHG: 21:841(A)(1) & 841(B)(1)(B) POSS WITD COCAINE BASE (CT 1).

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 80 MONTHS
TERM OF SUPERVISION.....: 5 YEARS
DATE OF OFFENSE.....: 01-20-2000

G0002 MORE PAGES TO FOLLOW . . .

DEVEN 540*23 * SENTENCE MONITORING * 09-12-2005
PAGE 002 OF 002 * COMPUTATION DATA * 09:51:20
AS OF 09-12-2005

REGNO.: 03901-036 NAME: COLBY, BARRY CLARK

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 06-13-2000 AT RBK AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 04-24-2000
TOTAL TERM IN EFFECT.....: 80 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 6 YEARS 8 MONTHS
EARLIEST DATE OF OFFENSE.....: 01-20-2000

JAIL CREDIT.....: FROM DATE THRU DATE
01-20-2000 04-23-2000

TOTAL PRIOR CREDIT TIME.....: 95
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 313
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 11-10-2005
SIX MONTH /10% DATE.....: N/A
EXPIRATION FULL TERM DATE.....: 09-19-2006

PROJECTED SATISFACTION DATE.....: 11-10-2005
PROJECTED SATISFACTION METHOD...: GCT REL

S0055 NO PRIOR SENTENCE DATA EXISTS FOR THIS INMATE

Exhibit B

United States District Court

District of Maine

UNITED STATES OF AMERICA

V.

BARRY CLARK COLBY

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 00-CR-14-P-H

Entered on Docket:

DEPUTY CLERK

4-24-2000

JOSEPH H. GROFF III ESQ

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) ONE (Information)
- ☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
- ☐ was found guilty on count(s) _____ after a plea of not guilty.
- ☐ The defendant has been found not guilty on count(s) _____
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 U.S.C § 841 (a)(1) and 841 (b)(1)(B)	Possession with Intent to Distribute Cocaine Base	1/20/2000	One

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 005-52-5906Defendant's Date of Birth: 03/22/1950Defendant's USM No.: 03901-036

Defendant's Residence Address:

Cumberland County Jail50 County WayPortland ME 04102

Defendant's Mailing Address:

April 24, 2000

Date of Imposition

Signature of Judicial Officer

D. Brock Hornby, United States District Judge

Name & Title of Judicial Officer

April 24, 2000

Date

A TRUE COPY
ATTEST: William S. Brownell, Clerk
By MMC Deputy Clerk

DEFENDANT: Barry Clark Coiby

Judgment-Page 2 of 7

CASE NUMBER: 00-CR-14-P-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of Eighty (80) months.

The defendant shall receive credit for time spent in presentence detention.

☒ The cost of incarceration fee is waived.

The court makes the following recommendations to the Bureau of Prisons: That the defendant be enrolled in the 500 Hour Intensive Drug Treatment Program.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district,

☐ at _____ a.m./p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on 6/1/00 to FCI, Ray Brook
at Ray Brook, NY, with a certified copy of this judgment.

John Nash, Warden
United States Marshal

By Debbie Lichtenwalter
Deputy Marshal

DEFENDANT: Barry Clark Colby
CASE NUMBER: 00-CR-14-P-II

Judgment-Page 3 of 7

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of FIVE (5) Years.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☒ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

The defendant shall also comply with the additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Barry Clark Colby

Judgment-Page 4 of 7

CASE NUMBER: 00-CR-14-P-H

ADDITIONAL SUPERVISED RELEASE TERMS

- 1) Defendant shall not use or possess any controlled substances or intoxicants; and shall participate in a program of drug and alcohol abuse therapy to the satisfaction of the supervising officer. This may include testing to determine if the defendant has had use of drugs or intoxicants. Defendant shall pay-co-pay for services provided during the course of such treatment, to the supervising officer's satisfaction;
- 2) Defendant shall actively seek or maintain employment for compensation to the satisfaction of his supervising officer; and
- 3) Defendant shall have no communication or contact with co-defendant Bruce Carmichael.

DEFENDANT: Barry Clark Colby
CASE NUMBER: 00-CR-14-P-H

Judgment-Page 5 of 7

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
COUNT 1	\$100.00	\$0.00	\$0.00
Totals:	\$100.00	\$0.00	\$0.00

If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

- ☒ The court finds that the defendant does not have the ability to pay a fine. The Court will waive the fine in this case.
- ☐ The above fine includes costs of incarceration and/or supervision in the amount of \$0.00.

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g).

- ☐ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived.
 - ☐ The interest requirement is modified as follows:

RESTITUTION

- ☐ The defendant shall make restitution to the following payees in the amounts listed below.
- ☐ The interest requirement is waived.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>**Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
----------------------	-----------------------------------	--	--

Totals: _____

**Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: Barry Clark Colby
CASE NUMBER: 00-CV-14-P-H

Judgment-Page 6 of 7

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment

Payment of the total fine and other criminal monetary penalties shall be due as follows:

☒ in full immediately.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed

Special instructions regarding the payment of criminal monetary penalties:

FORFEITURE

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made as directed by the court, the probation officer, or the United States attorney.

DEFENDANT: Barry Clark Colby

Judgment-Page 7 of 7

CASE NUMBER: 00-CR-14-P-H

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

See also attached transcript portion (Exhibit A) which is incorporated by reference.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 29

Criminal History Category: III

Imprisonment Range: 108 to 135 months

Supervised Release Range: 3 to 5 years

Fine Range: \$15,000.00 to \$2,000,000.00

☒ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$ N/A

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

☒ The sentence departs from the guideline range:

☒ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following specific reason(s):

Exhibit C

FUNCTION: LST SCOPE: REG EQ 03901-036 OUTPUT FORMAT: FULL
-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----
DT RCV: FROM _____ THRU _____ DT STS: FROM _____ THRU _____
DT STS: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT RDU
DT TDU: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT TRT
STS/REAS: _____
SUBJECTS: _____
EXTENDED: _____ REMEDY LEVEL: _____ RECEIPT: _____ "OR" EXTENSION: _____
RCV OFC : EQ _____
TRACK: DEPT: _____
PERSON: _____
TYPE: _____
EVNT FACL: EQ _____
RCV FACL.: EQ _____
RCV UN/LC: EQ _____
RCV QTR.: EQ _____
ORIG FACL: EQ _____
ORG UN/LC: EQ _____
ORIG QTR.: EQ _____

G5152 NO REMEDY DATA EXISTS FOR THIS INMATE

Exhibit D

REG NO...: 03901-036 NAME.....: COLBY, BARRY CLARK
CATEGORY: ARS FUNCTION: DIS FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	01-12-2005 0846	CURRENT
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	01-12-2005 0613	01-12-2005 0846
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	12-10-2004 1303	01-12-2005 0613
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	12-10-2004 0905	12-10-2004 1303
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	11-17-2004 1052	12-10-2004 0905
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	11-16-2004 1156	11-17-2004 1052
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	07-09-2004 1313	11-16-2004 1156
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	07-09-2004 0610	07-09-2004 1313
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	06-01-2004 1128	07-09-2004 0610
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	06-01-2004 0634	06-01-2004 1128
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	11-14-2003 0953	06-01-2004 0634
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	11-14-2003 0710	11-14-2003 0953
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	10-17-2003 1205	11-14-2003 0710
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	10-17-2003 0725	10-17-2003 1205

G0002 MORE PAGES TO FOLLOW . . .

REG NO.: 03901-036 NAME: COLBY, BARRY CLARK
CATEGORY: ARS FUNCTION: DIS FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	10-23-2002 1128	10-17-2003 0725
DEV	LOCAL HOSP	ESC TRIP TO LOCAL HOSP W/RETN	10-23-2002 0909	10-23-2002 1128
DEV	A-DES	DESIGNATED, AT ASSIGNED FACIL	01-10-2002 2029	10-23-2002 0909
S13	RELEASE	RELEASED FROM IN-TRANSIT FACL	01-10-2002 2029	01-10-2002 2029
S13	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	01-10-2002 1440	01-10-2002 2029
RBK	TRANSFER	TRANSFER	01-10-2002 1440	01-10-2002 1440
RBK	A-DES	DESIGNATED, AT ASSIGNED FACIL	06-01-2000 1315	01-10-2002 1440
S13	RELEASE	RELEASED FROM IN-TRANSIT FACL	06-01-2000 1315	06-01-2000 1315
S13	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	06-01-2000 0536	06-01-2000 1315
LEW	HLD REMOVE	HOLDOVER REMOVED	06-01-2000 0536	06-01-2000 0536
LEW	A-HLD	HOLDOVER, TEMPORARILY HOUSED	05-11-2000 1314	06-01-2000 0536
B01	RELEASE	RELEASED FROM IN-TRANSIT FACL	05-11-2000 1314	05-11-2000 1314
B01	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	05-11-2000 0945	05-11-2000 1314
OTV	HLD REMOVE	HOLDOVER REMOVED	05-11-2000 0945	05-11-2000 0945

G0002 MORE PAGES TO FOLLOW . . .

REG NO...: 03901-036 NAME.....: COLBY, BARRY CLARK
CATEGORY: ARS FUNCTION: DIS FORMAT:

FCL	ASSIGNMENT	DESCRIPTION	START DATE/TIME	STOP DATE/TIME
OTV	A-HLD	HOLDOVER, TEMPORARILY HOUSED	05-03-2000 1505	05-11-2000 0945
O-P	RELEASE	RELEASED FROM IN-TRANSIT FACL	05-03-2000 1505	05-03-2000 1505
O-P	A-ADMIT	ADMITTED TO AN IN-TRANSIT FACL	05-01-2000 1246	05-03-2000 1505
CBN	ADMIN REL	ADMINISTRATIVE RELEASE	05-01-2000 1246	05-01-2000 1246
CBN	A-ADMIN	ADMINISTRATIVE ADMISSION	05-01-2000 1243	05-01-2000 1246

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

Exhibit E

FEB 94
 U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS

To: Division of Probation & Parole State House Station #111 Augusta, ME 04333		Institution: FCI, Ray Brook, New York
		Date: June 15, 2000
Re: Probation Violation	Inmate's Name: COLBY, Barry Clark	Register No.: 03901-036 (GEN B)

DOB: 03-22-1950

The below checked paragraph relates to the above named inmate:

XXX This office is in receipt of the following report: Federal Presentence Report indicates this inmate was on probation for 4 years under docket #87-481 in Lincoln County Superior Court in Wiscasset, ME when he committed federal offense. Will you please investigate this and advise what disposition, if any, has been made of the case. If subject is wanted by your department and you wish a detainer placed, it will be necessary for you to forward a certified copy of your warrant to us along with a cover letter stating your desire to have it lodged as a detainer, or indicate you have no further interest in subject. His projected release date is scheduled for 11/10/2005.

- ☐ A detainer has been filed against this subject in your favor charging _____ Release is tentatively scheduled for _____ however, we will again notify you approximately 60 days prior to actual release.
- ☐ Enclosed is your detainer warrant. Your detainer against the above named has been removed in compliance with your request.
- ☐ Your detainer warrant has been removed on the basis of the attached _____. Notify this office immediately if you do not concur with this action.
- ☐ Your letter dated _____ requests notification prior to the release of the above named prisoner. Our records have been noted. Tentative release date at this time is _____.
- ☐ I am returning your _____ on the above named inmate who was committed to this institution on _____ to serve _____ for the offense of _____. If you wish your _____ filed as a detainer, please return it to us with a cover letter stating your desire to have it placed as a hold or indicate you have no further interest in the subject.
- ☐ The above named inmate has been transferred to _____. Your detainer/notification request has been forwarded.
- ☐ Other:

Sincerely

James Cochran
 James Cochran

for Inmate Systems Manager

2 Signed Record Copies - 1 Addressee, 1 - Judgment & Commitment File; Copy - Inmate; Copy - Central File (Section I);
 Copy - Correctional Services Department

(This form may be reproduced via WP)

(Replaces BP-394(58) dtd October 1988)

Exhibit F

BP-S394.058

DETAINDER

LETTER CDFRM

FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To: Division of Probation & Parole
State House Station #111
Augusta, ME 04333

Institution:

FCI, Ray Brook, New York

Date: June 15, 2000

Re:

Probation Violation

Inmate's Name:

COLBY, Barry Clark

Register No.:

03901-036 (GEN B)

DOB: 03-22-1950

The below checked paragraph relates to the above named inmate:

SECOND ATTEMPT 7/27/00

XXX This office is in receipt of the following report: Federal Presentence Report indicates this inmate was on probation for 4 years under docket #87-481 in Lincoln County Superior Court in Wiscasset, ME when he committed federal offense. Will you please investigate this and advise what disposition, if any, has been made of the case. If subject is wanted by your department and you wish a detainer placed, it will be necessary for you to forward a certified copy of your warrant to us along with a cover letter stating your desire to have it lodged as a detainer, or indicate you have no further interest in subject. His projected release date is scheduled for 11/10/2005.

- ☐ A detainer has been filed against this subject in your favor charging _____, Release is tentatively scheduled for _____, however, we will again notify you approximately 60 days prior to actual release.
- ☐ Enclosed is your detainer warrant. Your detainer against the above named has been removed in compliance with your request.
- ☐ Your detainer warrant has been removed on the basis of the attached _____. Notify this office immediately if you do not concur with this action.
- ☐ Your letter dated _____ requests notification prior to the release of the above named prisoner. Our records have been noted. Tentative release date at this time is _____.
- ☐ I am returning your _____ on the above named inmate who was committed to this institution on _____ to serve _____ for the offense of _____. If you wish your _____ filed as a detainer, please return it to us with a cover letter stating your desire to have it placed as a hold or indicate you have no further interest in the subject.
- ☐ The above named inmate has been transferred to _____. Your detainer/notification request has been forwarded.
- ☐ Other:

Sincerely



James Cochran

for Inmate Systems Manager

2 Signed Record Copies - 1 Addressee, 1 - Judgment & Commitment File; Copy - Inmate; Copy - Central File (Section I);
Copy - Correctional Services Department

(This form may be reproduced via WP)

(Replaces BP-394(58) dtd October 1988)

Exhibit G

FEB 94
 U.S. DEPARTMENT OF JUSTICE
 FEDERAL BUREAU OF PRISONS

To: Division of Probation & Parole State House Station #111 Augusta, ME 04333	Institution FMC Devens - ISM Dept. P.O. Box 880 Ayer, MA 01432 Date 1/14/02
--	--

RE: Probation Violation	Inmate's Name	Register No.
	Colby, Barry	03901-036

The below checked paragraph relates to the above named inmate:

- X This office is in receipt of the following report: Federal Presentence Report indicates this inmate was on probation for 4 years under Dkt. #87-481 in Lincoln County Superior Court in Wixcasset, ME when he committed federal offense.
- X Will you please investigate this report and advise what disposition, if any, has been made of the case. If subject is wanted by your department and you wish a detainer placed, it will be necessary for you to forward a certified copy of your warrant to us along with a cover letter stating your desire to have it lodged as a detainer, or indicate you have no further interest in subject.

A detainer has been filed against the subject in your favor charging Release is tentatively scheduled for . However, we will again notify you approximately 60 days prior to actual release.

Enclosed is your detainer warrant. Your detainer against the above named has been removed in compliance with your request.

Your detainer warrant has been removed on the basis of the attached. Notify this office immediately if you do not concur with this action.

Your letter dated requests notification prior to the release of the above named prisoner. Our records have been noted. Tentative release date is .

The above inmate has been transferred to . Your notification request has been forwarded.

- X Other: DOB: 3/22/50
 FBI: 865697G
 SID:

Sincerely



Mr. A. Amico FOR
 Stephen D. Gagnon, Inmate Systems Manager

2 Signed Record Copies - 1 Addressee, 1 - Judgment & Commitment File: Copy - Inmate: Copy - Central File (Section 1):
 Copy - Correctional Services Department Copy - 30 Day Suspense

Exhibit H



ANGUS S. KING, JR.
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CORRECTIONS
DIVISION OF ADULT SERVICES, REGION 1
657 CONGRESS STREET
PORTLAND, MAINE 04101
TEL. (207) 822-0806

MARTIN A. MAGNUSSON
COMMISSIONER

MICHAEL K. ROACH
REGIONAL ADMINISTRATOR

February 13, 2002

Stephen D. Gagnon
Inmate Systems Manager
FMC Devens - ISM Dept.
P.O. Box 880
Ayer, MA. 01432-0880

RE: Barry C. Colby
Register No. 03901-036
DOB: 03/22/50

Dear Mr. Gagnon:

Please find enclosed an attested copy of a Warrant of Arrest for Mr. Colby. I wish to have this lodged as a detainer upon Mr. Colby.

We would appreciate at least three weeks notice before subject's release date in order for us to make arrangements to transport him back to Maine.

Thank you in advance and please do not hesitate to call if any questions arise.

Sincerely,

A handwritten signature in cursive script that reads "Michael K. Roach".

Michael K. Roach
Regional Correctional Administrator

MKR/p
encl.

Exhibit I

STATE OF MAINE

SUPERIOR COURT

Lincoln, ss.

Docket No. RR-87-481~~DISTRICT COURT~~

Location _____

Docket No. _____

STATE OF MAINE

v.

BARRY C. COLBY218 Park AvenuePortland MaineD.O.B. 03/22/50

Defendant's Name, Address, County

WARRANT OF ARREST

- ☐ COMPLAINT, INDICTMENT
☐ FAILURE TO APPEAR FOR
☐ ARRAIGNMENT
☐ HEARING
☒ VIOLATION OF PROBATION
☐ UNPAID FINE/FEEs, ETC.

Height 5'8"Weight 150Eye BrownHair Lt BrownRace WhiteSex MaleInvestigative Department Probation & Parole
Enforcement ID # _____

TO ANY AUTHORIZED LAW ENFORCEMENT OFFICER:
YOU ARE HEREBY COMMANDED: to arrest the defendant and

- ☐ bring the defendant without unnecessary delay before the above entitled court to answer to a charge of

Class _____, in violation of Title(s) _____, M.R.S.A.
 §§ _____.

- ☒ commit the defendant to the county jail pending a preliminary hearing on an alleged violation of the conditions of probation as provided by 17-A, M.R.S.A. §§ 1205(4), 1206(3). (If not bailed, preliminary hearing shall be held not later than the third day after arrest, exclusive of weekends and holidays).

- ☐ bring the defendant before this court so that the defendant may show cause why a sentence of imprisonment should not be imposed for nonpayment. The defendant was ordered to pay the sum of \$ _____ for (fine and surcharges or assessments) (counsel fees) (restitution) (jail fees) to the clerk of courts and the defendant has defaulted in the payment of the obligation or in the payment of installments of the obligation.

Bail Commissioner to set bail (Except for Probation Revocation, Violation of Bail, Fugitive from Justice) unless fixed by court as follows:

☒ NO BAIL ALLOWED☐ \$ _____ cash☐ \$ _____ with _____ surety (ies) or \$ _____ cash☐ Personal Recognizance☐ \$ _____ unsecured

Conditions of Bail: _____

Date: August 30, 1999

Sharon Simpson
 (Judge) (Clerk) (Justice of the Peace) X

I arrested the defendant on _____ and now have the defendant before the court as commanded.

Date: _____

A TRUE COPY

Authorized Officer

CR-073, Rev. 11/96

TEST

CLERK / ASST. CLERK
 LINCOLN COUNTY JUDICIAL DEPARTMENT

Exhibit J

BP-S394.058 DETAINER ACTION LETTER CDFRM

FEB 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To:
Maine Department of Corrections
ATT: Michael K. Roach
657 Congress St.
Portland, ME 04101

Institution FMC Devens - ISM Dept.
P.O. Box 880
Ayer, MA 01432

Date 2/19/02

RE: Detainer Lodged

Inmate's Name

Register No.

Colby, Barry

03901-036

The below checked paragraph relates to the above named inmate:

This office is in receipt of the following report:
Will you please investigate this report and advise what disposition, if any, has been made of the case. If subject is wanted by your department and you wish a detainer placed, it will be necessary for you to forward a certified copy of your warrant to us along with a cover letter stating your desire to have it lodged as a detainer, or indicate you have no further interest in subject.

X A detainer has been filed against the subject in your favor charging V.O.P..
Release is tentatively scheduled for 11/10/05. However, we will again notify you approximately 60 days prior to actual release.

Enclosed is your detainer warrant. Your detainer against the above named has been removed in compliance with your request.

Your detainer warrant has been removed on the basis of the attached. Notify this office immediately if you do not concur with this action.

Your letter dated Requests notification prior to the release of the above named prisoner. Our records have been noted. Tentative release date is .

X Other: DOB: 3/22/50
FBI: 865697G

Sincerely



Mr. A. Amico FOR
Stephen D. Gagnon, Inmate Systems Manager

2 Signed Record Copies - 1 Addressee, 1 - Judgment & Commitment File: Copy - Inmate: Copy - Central File (Section 1):
Copy - Correctional Services Department Copy - 30-day Suspense

Exhibit K

DEVAU
PAGE 001

PROGRAM REVIEW REPORT

01-25-2003
10:22:01

INSTITUTION: DEV DEVENS FMC

NAME.....: COLBY, BARRY CLARK
RESIDENCE...: PORTLAND, ME 04101

REG. NO: 03901-036

TYPE OF REVIEW.....: INITIAL CLASSIFICATION/PROGRAM REVIEW
NEXT REVIEW DATE.....: 7/16/03PROJ. RELEASE DATE...: 11-10-2005
PAROLE HEARING DATE...: NONERELEASE METHOD...: GCT REL
HEARING TYPE...: NONEDATE OF NEXT CUSTODY REVIEW: 1/04

DETAINERS (Y/N): Y

CIM STATUS (Y/N).....: N

IF YES, RECONCILED (Y/N): N/APENDING CHARGES.....: Detainer Maine DOC Probation ViolationOFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (X/N) yes
IF YES - CIRCLE ONE - DRUG TRAFFICKING/CURRENT VIOLENCE PAST VIOLENCE

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	06-01-2003 1840
CMA	RPP PART	RELEASE PREP PGM PARTICIPATES	01-23-2003 1051
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	06-07-2000 1845
CMA	V94 PV	V94 PAST VIOLENCE	06-07-2000 1845
CUS	IN	IN CUSTODY	05-02-2000 1222
DRG	DRG E COMP	DRUG EDUCATION COMPLETED	08-29-2000 0836
DRG	DRG I RQ J	DRG INTRV REQD: JUD RECOMMEND	06-07-2000 1840
EDI	ESL HAS	ENGLISH PROFICIENT	06-12-2000 0001
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	06-12-2000 0001
FRP	COMPLT	FINANC RESP-COMPLETED	04-02-2001 1131
LEV	LOW	SECURITY CLASSIFICATION LOW	12-10-2001 0939
MDS	NO F/S	NO FOOD SERVICE WORK	06-07-2000 1429
MDS	REG DUTY W	REGULAR DUTY W/MED RESTRICTION	01-15-2002 1413
MDS	SOFT SHOES	SOFT SHOES ONLY	02-26-2002 1200
QTR	J03-307U	HOUSE J/RANGE 03/BED 307U	10-23-2002 1128
RLG	PROTESTANT	PROTESTANT	06-07-2000 1853
WRK	J UNIT ORD	J UNIT ORDERLY	12-11-2002 0001

WORK PERFORMANCE RATING: Received good evaluations as per
orderly & CCSPH.INCIDENT REPORTS SINCE LAST PROGRAM REVIEW: noneFRP PLAN/PROGRESS: Completed 100.00 felon assessment
LAW 6 rows 51.56 current Bal \$1.93RELEASE PREPARATION PARTICIPATION: Encouraged to participate, but
could be exempt due to detainer. Completed
Personal Growth & Health Education. Needs four
classes.

DEVAU

PROGRAM REVIEW REPORT

01-25-2003

PAGE 002

10:22:01

CCC RECOMMENDATION: will be denied due to criteria.

PROGRESS MADE SINCE LAST REVIEW:

Near conduct, complete Explosive Computer Application. became first order. good evaluation.

GOALS FOR NEXT PROGRAM REVIEW MEETING:

Clear conduct, complete Advanced Computer claim when available. Complete 1 Additional file of charge (Small Business). at least good evaluation. -> possibly medically discharged.

LONG TERM GOALS:

Maintain firm; comment des. complete security program if interested. does not qualify. develop release plan.

OTHER INMATE REQUESTS/TEAM ACTIONS:

Revised VO? 40x updated custody classificationno questions

SIGNATURES:

UNIT MANAGER:

INMATE:

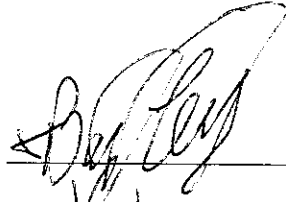
DATE:

DATE:



Hernandez

1/29/03



1/29/03

Exhibit L

DEVBE * PROGRAM REVIEW REPORT * 07-05-2003
PAGE 001 10:53:56

INSTITUTION: DEV DEVENS FMC

NAME.....: COLBY, BARRY CLARK REG. NO: 03901-036
RESIDENCE...: PORTLAND, ME 04101

TYPE OF REVIEW.....: INITIAL CLASSIFICATION/PROGRAM REVIEW
NEXT REVIEW DATE.....: 12/29/03

PROJ. RELEASE DATE...: 11-10-2005 RELEASE METHOD..: GCT REL
PAROLE HEARING DATE..: NONE HEARING TYPE....: NONE

DATE OF NEXT CUSTODY REVIEW: 1/03 DETAINERS (Y/N): Y

CIM STATUS (Y/N)....: N IF YES, RECONCILED (Y/N): N/A

PENDING CHARGES.....: Debanir Hanebor Probation violation

OFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N).....: Y
IF YES - CIRCLE ONE - DRUG TRAFFICKING/CURRENT VIOLENCE/FAST VIOLENCE

CATEGORY	-----	CURRENT ASSIGNMENT	-----	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE		12-13-2004	1022
CMA	RFP EXEMPT	RELEASE PREP PGM EXEMPT		02-05-2003	1006
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394		06-07-2000	1845
CMA	V94 PV	V94 PAST VIOLENCE		06-07-2000	1845
CUS	IN	IN CUSTODY		05-02-2000	1222
DRG	DRG E COMP	DRUG EDUCATION COMPLETED		08-29-2000	0836
DRG	DRG I RQ C	DRG INTRV REQD: JUD RECOMMEND		06-07-2000	1840
EDI	ESL HAS	ENGLISH PROFICIENT		06-12-2000	0001
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA		06-12-2000	0001
FRP	COMPLT	FINANC RESP-COMPLETED		04-02-2001	1131
LEV	LOW	SECURITY CLASSIFICATION LOW		12-10-2001	0939
MDS	NO F/S	NO FOOD SERVICE WORK		06-07-2000	1429
MDS	REG DUTY W	REGULAR DUTY W/MED RESTRICTION		01-15-2002	1413
QTR	J03-307U	HOUSE J/RANGE 03/BED 307U		10-23-2002	1128
RLG	PROTESTANT	PROTESTANT		06-07-2000	1653
WRK	J UNIT ORD	J UNIT ORDERLY		12-11-2002	0001

WORK PERFORMANCE RATING: Outstanding with repeat

INCIDENT REPORTS SINCE LAST PROGRAM REVIEW: none

FRP PLAN/PROGRESS: completed felon assessment
bal 2481

RELEASE PREPARATION PARTICIPATION: exempt due to detainee

DEVBE
PAGE 002

PROGRAM REVIEW REPORT

07-05-2003
10:53:56

CCC RECOMMENDATION: will be denied due to
delinquent

PROGRESS MADE SINCE LAST REVIEW: clean conduct, outstanding
with reports - no education classes

GOALS FOR NEXT PROGRAM REVIEW MEETING: also complete 1-2
ACE classes, all sanitation,
good to outstanding work reports
participate in recreation activities
as tolerated.

LONG TERM GOALS: develop a meal plan
3 month prior to release, maintain
family ties.

OTHER INMATE REQUESTS/TEAM ACTIONS: hemi id 407, 408.
no questions

DEVBE * PROGRAM REVIEW REPORT * 07-05-2003
PAGE 003 OF 003 10:53:58

SIGNATURES:

UNIT MANAGER:

INMATE:

DATE:

DATE:

[Handwritten signatures and dates]
UNIT MANAGER: *Fernandez* INMATE: *[Signature]*
DATE: *7/9/03* DATE: *7/9/03*

Exhibit M

DEVCB
PAGE 001

PROGRAM REVIEW REPORT

01-01-2004
14:48:19

INSTITUTION: DEV DEVENS FMC

NAME.....: COLBY, BARRY CLARK
RESIDENCE...: PORTLAND, ME 04101

REG. NO: 03901-036

TYPE OF REVIEW.....: ~~INITIAL CLASSIFICATION~~ PROGRAM REVIEW
NEXT REVIEW DATE.....: July 2004

PROJ. RELEASE DATE...: 11-10-2005
PAROLE HEARING DATE...: NONE

RELEASE METHOD.: GCT REL
HEARING TYPE...: NONE

DATE OF NEXT CUSTODY REVIEW: September 2004

DETAINEES (Y/N): Y

CIM STATUS (X/N).....: N

IF YES, RECONCILED (Y/N): N/A

PENDING CHARGES.....: MAINE DOC - V.O.P.

OFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N).....: yes (detainer)
IF YES - CIRCLE ONE - ~~DRUG TRAFFICKING~~ PAST VIOLENCE

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	12-13-2004 1022
CMA	RPP EXEMPT	RELEASE PREP PGM EXEMPT	02-05-2003 1006
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	06-07-2000 1845
CMA	V94 PV	V94 PAST VIOLENCE	06-07-2000 1845
CUS	IN	IN CUSTODY	05-02-2000 1222
DRG	DRG E COMP	DRUG EDUCATION COMPLETED	08-29-2000 0836
DRG	DRG I RQ J	DRG INTRV REQD: JUD RECOMMEND	06-07-2000 1840
EDI	ESL HAS	ENGLISH PROFICIENT	06-12-2000 0001
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	06-12-2000 0001
FRP	COMPLT	FINANC RESP-COMPLETED	04-02-2001 1131
LEV	MEDIUM	SECURITY CLASSIFICATION MEDIUM	09-09-2003 0927
MDS	NO F/S	NO FOOD SERVICE WORK	06-07-2000 1429
MDS	REG DUTY W	REGULAR DUTY W/MED RESTRICTION	01-15-2002 1413
QTR	J01-128U	HOUSE J/RANGE 01/BED 128U	12-27-2003 0854
RLG	PROTESTANT	PROTESTANT	06-07-2000 1853
WRK	J UNIT ORD	J UNIT ORDERLY	11-14-2003 0953

WORK PERFORMANCE RATING: Mr. Colby is currently assigned as a J Unit orderly and is receiving outstanding work performance evaluations.

INCIDENT REPORTS SINCE LAST PROGRAM REVIEW: Mr. Colby was found guilty of a Code 305 on 9-8-2003.

FRP PLAN/PROGRESS: Mr. Colby satisfied his FRP obligation of a \$100 Release Assessment Fee on 4-2-2001. Letter D= \$312.50
Letter S= \$303.00

RELEASE PREPARATION PARTICIPATION: Due to his detainer, Mr. Colby has been placed in RPP exempt status. However, he is encouraged to voluntarily enroll in and complete the program prior to release.

DEVCB
PAGE 002

PROGRAM REVIEW REPORT

01-01-2004
14:48:19

CCC RECOMMENDATION: Due to his pending detainer, Mr. Colby will not be referred for CCC placement.

PROGRESS MADE SINCE LAST REVIEW: Mr. Colby is receiving outstanding work performance evaluations and completed Smoking Cessation class on 8-27-2003.

GOALS FOR NEXT PROGRAM REVIEW MEETING: By July 2004, Mr. Colby should enroll in at least (1) Adult Continuing Education course and make satisfactory progress towards completion. Voluntarily enroll in at least (2) RPP courses and make satisfactory progress towards completion. Monitor outstanding work performance evaluations, begin developing release plans, monitor clean conduct/behavior, and begin saving money for release.

LONG TERM GOALS: Mr. Colby should complete at least (2) Adult Continuing Education courses per year up until release, voluntarily complete RPP prior to release, monitor outstanding work performance evaluations, have release plans approved by USPO, monitor clean conduct/behavior, and have money saved for release.

OTHER INMATE REQUESTS/TEAM ACTIONS: 407/408 Reviewed.

DEVCB *
PAGE 003 OF 003

PROGRAM REVIEW REPORT

* 01-01-2004
14:48:19

SIGNATURES: D. Allen, Csw 1-2-04

UNIT MANAGER: [Signature] INMATE: X [Signature]

DATE: 1-2-04

DATE: 1-2-04

D. Adams, Csw

Exhibit N

DEVBE
PAGE 001

PROGRAM REVIEW REPORT

06-05-2004
09:54:30

INSTITUTION: DEV DEVENS FMC

NAME.....: COLBY, BARRY CLARK
RESIDENCE...: PORTLAND, ME 04101

REG. NO: 03901-036

TYPE OF REVIEW.....: ~~INITIAL CLASSIFICATION~~/PROGRAM REVIEW
NEXT REVIEW DATE.....: 11/24/04PROJ. RELEASE DATE..: 11-10-2005
PAROLE HEARING DATE.: NONERELEASE METHOD.: GCT REL
HEARING TYPE...: NONEDATE OF NEXT CUSTODY REVIEW: 6/05

DETAINERS (Y/N): Y

CIM STATUS (Y/N).....: N

IF YES, RECONCILED (Y/N): NAPENDING CHARGES.....: Detainer Violation Protection Home DOCOFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N).....: CP
IF YES - CIRCLE ONE DRUG TRAFFICKING/CURRENT VIOLENCE/PAST VIOLENCE

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	12-13-2004 1022
CMA	RPP PART	RELEASE PREP PGM PARTICIPATES	05-19-2004 1158
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	06-07-2000 1845
CMA	V94 PV	V94 PAST VIOLENCE	06-07-2000 1845
CUS	IN	IN CUSTODY	05-02-2000 1222
DRG	<input checked="" type="checkbox"/> DRG E COMP	DRUG EDUCATION COMPLETED	08-29-2000 0836
DRG	DRG I RQ J	DRG INTRV REQD: JUD RECOMMEND	06-07-2000 1840
EDI	ESL HAS	ENGLISH PROFICIENT	06-12-2000 0001
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	06-12-2000 0001
FRP	COMPLT	FINANC RESP-COMPLETED	04-02-2001 1131
LEV	<input checked="" type="checkbox"/> MEDIUM	SECURITY CLASSIFICATION MEDIUM	09-09-2003 0927
MDS	NO F/S	NO FOOD SERVICE WORK	06-07-2000 1429
MDS	REG DUTY W	REGULAR DUTY W/MED RESTRICTION	01-15-2002 1413
QTR	J01-128U	HOUSE J/RANGE 01/BED 128U	06-01-2004 1128
RLG	PROTESTANT	PROTESTANT	06-07-2000 1853
WRK	J UNIT ORD	J UNIT ORDERLY	06-01-2004 1128

WORK PERFORMANCE RATING:

Remote Colby receives outstanding work report.

INCIDENT REPORTS SINCE LAST PROGRAM REVIEW:

He has not received an incident report since last program review.FRP PLAN/PROGRESS: Completed \$100.00 FA on 4/2/01Lab amount 337.84 Bal. \$65

RELEASE PREPARATION PARTICIPATION:

will be exempt due to detainer, but is encouraged to participate.

DEVBE
PAGE 002

PROGRAM REVIEW REPORT

06-05-2004
09:54:30CCC RECOMMENDATION: will be denied due to delinquentPROGRESS MADE SINCE LAST REVIEW: clear conduct, outstanding with
reports, NO education classes. has not started & for
release.GOALS FOR NEXT PROGRAM REVIEW MEETING: clear conduct, continue
with outstanding with reports, save \$3-\$5 a month for
release purposes, complete 1 ACE class (computer
or health & nutrition class), comply w/ medical
treatment. Complete release plan (personal finance)
voluntarily.LONG TERM GOALS: Develop release plan for 6/05 to include
residence, voluntarily complete release classes
by 10/05. save \$3-\$5 a month for release purposes.OTHER INMATE REQUESTS/TEAM ACTIONS: heard 402, 408.
updated custody form.
all exempt from no problem or concerns

DEVBE
PAGE 003 OF 003

PROGRAM REVIEW REPORT

* 06-05-2004
09:54:30

SIGNATURES:



UNIT MANAGER:

V. Fernandez

INMATE:



DATE:

6/9/04

DATE:

6/9/04

Exhibit O

DEVBE
PAGE 001

PROGRAM REVIEW REPORT

* 11-23-2004
19:17:15

INSTITUTION: DEV DEVENS FMC

NAME.....: COLBY, BARRY CLARK
RESIDENCE...: PORTLAND, ME 04101

REG. NO: 03901-036

TYPE OF REVIEW.....: INITIAL CLASSIFICATION/PROGRAM REVIEW
NEXT REVIEW DATE.....: 2/16/05PROJ. RELEASE DATE...: 11-10-2005
PAROLE HEARING DATE...: NONERELEASE METHOD...: GCT REL
HEARING TYPE...: NONEDATE OF NEXT CUSTODY REVIEW: 3/05

DETAINERS (Y/N): Y

CIM STATUS (Y/N).....: N

IF YES, RECONCILED (Y/N): N/A

PENDING CHARGES.....:

Detainer - Maine probation violationOFFENDER IS SUBJECT TO NOTIFICATION UNDER 18 U.S.C. 4042(B) (Y/N): yes
IF YES - CIRCLE ONE - DRUG TRAFFICKING CURRENT VIOLENCE/PAST VIOLENCE

CATEGORY	CURRENT ASSIGNMENT	EFF DATE	TIME
CMA	PROG RPT	NEXT PROGRESS REPORT DUE DATE	12-13-2004 1022
CMA	RPP EXEMPT	RELEASE PREP PGM EXEMPT	06-16-2004 0833
CMA	RPP UNT C	RELEASE PREP UNIT PGM COMPLETE	11-22-2004 1411
CMA	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394	06-07-2000 1845
CMA	V94 PV	V94 PAST VIOLENCE	06-07-2000 1845
CUS	IN	IN CUSTODY	05-02-2000 1222
DRG	DRG E COMP	DRUG EDUCATION COMPLETED	08-29-2000 0836
DRG	DRG I RQ J	DRG INTRV REQD: JUD RECOMMEND	06-07-2000 1840
EDI	ESL HAS	ENGLISH PROFICIENT	06-12-2000 0001
EDI	GED HAS	COMPLETED GED OR HS DIPLOMA	06-12-2000 0001
FRP	COMPLT	FINANC RESP-COMPLETED	04-02-2001 1131
LEV	MEDIUM	SECURITY CLASSIFICATION MEDIUM	09-09-2003 0927
MDS	NO F/S	NO FOOD SERVICE WORK	06-07-2000 1429
MDS	REG DUTY W	REGULAR DUTY W/MED RESTRICTION	01-15-2002 1413
QTR	J01-128U	HOUSE J/RANGE 01/BED 128U	11-17-2004 1052
RLG	PROTESTANT	PROTESTANT	06-07-2000 1853
WRK	J UNIT ORD	J UNIT ORDERLY	11-17-2004 1052

WORK PERFORMANCE RATING:

Annate Colly receives Outstand
work report.

INCIDENT REPORTS SINCE LAST PROGRAM REVIEW:

none since last program
review

FRP PLAN/PROGRESS:

Completed \$100 SA on 4/2/01last 6 mos - 216.68Bal 1.83

RELEASE PREPARATION PARTICIPATION:

except due to detainer

DEVBE
PAGE 002

PROGRAM REVIEW REPORT

11-23-2004
19:17:15

CCC RECOMMENDATION: denied due to detainee.

PROGRESS MADE SINCE LAST REVIEW: clean conduct, outstanding work habits, no issues.

GOALS FOR NEXT PROGRAM REVIEW MEETING: clean conduct, outstanding work habits, complete IACB clean of interest, comply w/ medical treatment

LONG TERM GOALS: successfully complete 5 year supervised release, maintain family contact,

OTHER INMATE REQUESTS/TEAM ACTIONS:

denied 402,408
Release Plan - Jacky Hood (friend)
15 Cedar St.

(201) 772-6612

DEVBE *
PAGE 003 OF 003

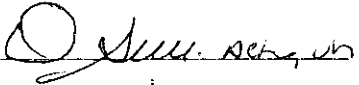
PROGRAM REVIEW REPORT

* 11-23-2004
19:17:15


SIGNATURES:



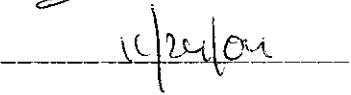
UNIT MANAGER:



INMATE:



DATE:



DATE:

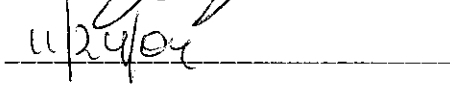


Exhibit P

GEOFFREY A. RUSHLAU
DISTRICT ATTORNEY

LEANE M. ZAINEA
DEPUTY DISTRICT ATTORNEY

ERIC J. WALKER

PATRICIA A. MADOR

DONALD LAWSON-STOPPS

KENDRA L. POTZ

CHRISTOPHER R. FERNALD

CARRIE L. CARNEY

LISA R. BOGUE
ASSISTANT DISTRICT ATTORNEYS



STATE OF MAINE

OFFICE OF THE DISTRICT ATTORNEY
DISTRICT SIX
KNOX, WALDO, LINCOLN AND SAGadahoc COUNTIES

PLEASE REPLY TO:

- ☐ **KNOX COUNTY COURTHOUSE**
62 Union Street
Rockland, ME 04841
Tel: 207-594-0424
Fax: 207-594-0434
- ☐ **WALDO COUNTY COURTHOUSE**
137 Church Street
Belfast, ME 04915
Tel: 207-338-2512
Fax: 207-338-6792
- ☒ **LINCOLN COUNTY COURTHOUSE**
32 High Street, P.O. Box 249
Wiscasset, ME 04578
Tel: 207-882-7312
Fax: 207-882-4323
- ☐ **SAGADAHOC COUNTY COURTHOUSE**
P.O. Box 246
BATH, ME 04530
TEL: 207-443-8204
FAX: 207-443-8208

November 22, 2004

Federal Medical Center Devens
Attn: I.S.M. Records
P.O. Box 880
Ayer, Mass. 01432

Re: Inmate Barry Colby, Reg. # 03901-036

To Whom It May Concern:

A detainer was lodged against the above-named inmate in February, 2002. There is currently a probation violation proceeding in Lincoln County Superior Court docket number CR-87-481, with an outstanding warrant. I understand that the inmate's release date from federal custody is November 10, 2005, but that he could be released earlier to a halfway house in Portland, Maine. Please consider this letter as a withdrawal of the detainer request. The warrant will remain outstanding until he surrenders himself to our court. Bail will be addressed at that time. I ask that his release from your facility will be made contingent upon his making arrangements for his surrender promptly upon his return to Maine.

Do not hesitate to call if you have any questions about this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Geoffrey Rushlau".

Geoffrey Rushlau
District Attorney

cc. PPO Michael Roach
Sharon Simpson, Clerk of Courts

Exhibit Q

BP-S394.058 DETAINER ACTION LETTER CDFRM
MAR 03

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

To: Office of the District Attorney District Six Lincoln County Courthouse 32 High Street Wiscasset, ME 04578		Institution: Federal Medical Center Devens Attn: ISM - Records Post Office Box 880 Ayer, MA 01432	
		Date: December 17, 2004	
Docket # CR-87-481	Inmate's Name: COLBY, Barry	Federal Reg. No. 03901-036	DOB/SEX/RACE 03-22-1950/M/W
Aliases:		Other No.: FBI 865697G ME SBI#E-7676	

The below checked paragraph relates to the above named inmate:

- ☐ This office is in receipt of the following report: _____. If subject is wanted by your department and you wish a detainer placed, it will be necessary for you to forward a certified copy of your warrant to us along with a cover letter stating your desire to have it lodged as a detainer. If you have no further interest in the subject, please forward a letter indicating so.
- ☐ A detainer has been filed against this subject in your favor charging _____. Release is tentatively scheduled for _____, however, we will notify you approximately 90 days prior to actual release. To check on an inmate's location, you may call our National Locator Center at: 202-307-3126 or check our BOP Inmate Locator Website at www.bop.gov.
- ☐ Enclosed is your detainer warrant. Your detainer against the above named has been removed in compliance with your request.
- ☒ Your detainer warrant has been removed on the basis of the attached letter dated 11-22-2004. Notify this office immediately if you do not concur with this action.
- ☐ Your letter dated _____ requests notification prior to the release of the above named prisoner. Our records have been noted. Tentative release date at this time is _____.
- ☐ I am returning your _____ on the above named inmate who was committed to this institution on _____ to serve _____ for the offense of _____. If you wish your _____ filed as a detainer, please return it to us with a cover letter stating your desire to have it placed as a hold or indicate you have no further interest in the subject.
- ☒ Current Charge: PWITD Cocaine Base
Projected Release Date: 11-10-2005

Sincerely,

C. Alvidrez

Carmen Alvidrez, Legal Instruments Examiner
 (978) 796-1187
 For Stephen Gagnon,
 Inmate Systems Manager

Exhibit R

BP-S210.073 INSTITUTIONAL REF AL FOR CCC PLACEMENT CDFRM

SEP 99

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: David Dwyer, CCM JFK Federal Building, Suite 2200 Boston, MA 02203		FROM: David L. Winn, Warden <i>[Signature]</i>	
Inmate Name COLBY, Barry Clark		Register Number 03901-036	Date 2/9/05
Unit Manager/Mail ID Nancy Patterson <i>[Signature]</i>		Institution (Address and Phone Number) FMC Devens P.O. Box 880 Ayer, MA 01432 (978) 796-1000	
1. Release City: Portland		Supervision District: District of Maine	
2. Anticipated Release Date November 10, 2005	Method Good Conduct Time	Verified by (ISM Staff) Steve Gagnon, ISM <i>[Signature]</i>	
3. Recommended (only one): a. Range 6 months (home confinement) or b. Date		4. If a presumptive parole case, enter the date the pre-release record review progress report was submitted to the Parole Commission: <u>N/A</u>	
5. Statutory Interim Hearing Scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Waived	6. Supervised Release <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Parole Term <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
7. Aftercare Supervision <input checked="" type="checkbox"/> Drug <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Mental Health <input type="checkbox"/> Other			
8. CIM Case: Yes <input checked="" type="checkbox"/> No		Assignment: <u>N/A</u>	
As CMC, I have reviewed the Request for Activity Clearance (404) and the SENTRY CIM Clearance and Separate Data and I recommend the inmate be considered for CCC placement and clearance be granted by the Warden. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Signature of CMC <i>[Signature]</i> Upon signature of the Warden, I will update SENTRY to reflect CCC referral for range/date as listed in item 3 above.		NOTE: The CMC will update SENTRY to reflect specific dates and CCC location code upon notification of acceptance from the CCM.	
9. If proposed District of Supervision differs from Sentencing District, has USPO approved? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A		10. Does inmate have a financial obligation? Yes <input checked="" type="checkbox"/> No If yes, indicate type and how obligation will be paid in item 12.	
11. Additional Information, including status of any detainers or pending charge(s) and whether there is a substance abuse history. Inmate Colby has an outstanding warrant for a probation violation in Lincoln County Superior Court in Wiscasset, Maine. The warrant will remain outstanding until he surrenders himself to the court. District Attorney Geoffrey Rushlau requested that the detainer be removed so that inmate Colby may obtain CCC placement. Inmate Colby has a substance abuse history. His drugs of choice are cocaine and cocaine base.			
12. Specific release preparation/Pre-natal care needs. Mr. Colby requires universal precautions and has been diagnosed with Hepatitis and polysubstance abuse by history. Currently, he is in the process of applying for social security disability with the assistance of an institution social worker. To aid his reintegration in the community, the Unit Team is recommending that Mr. Colby receive a 6 month Community Corrections Center placement (home confinement).			
13. For MINT Referrals, Date of Delivery:		14. (a) For MINT Referrals, Projected Date of Return to Parent Institution: (B) Proposed guardian:	

TO BE FORWARDED WITH THE REFERRAL FORM	NO. COPIES	TO BE FORWARDED TO THE REGIONAL TSM	NO. COPIES
BP-S210, Referral Form	2	BP-S210, Referral Form	1
Current Progress Report	2	Current Progress Report	2
Pre-sentence Report/Violation Report	2	Treatment Summary and Referral Form	2
Community Based Program Agreement	2	Drug Abuse Treatment Programs Agreement to Participate in Community Transition Programming	2
BP-339 CIM Case Information Summary (Non-Separation Cases)	1		
USPO Acceptance Letter	2		
Copy of Latest Notice of Action	2		
BP-351 Medical Evaluation for Transfer of Inmates to CCC Type Facility	2		
Judgment & Commitment Order	2		
Statement of Responsibility	2		

* If the inmate has a diagnosed, ongoing medical condition, such as diabetes or coronary disease, send any pertinent medical records.

Record Copy - CCM; Copy - Institution File; Copy - USPO Sentencing District; Copy USPO District of Supervision
(This form may be replicated via WP) This form replaces BP-210 November 1995

Sensitive Limited Official Use Only

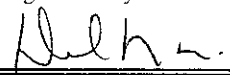
Exhibit S

BP-S399.058 **TRANSFER ORDER** CDFRM

MAY 94

U.S. DEPARTMENT OF JUSTICE**FEDERAL BUREAU OF PRISONS**

In accordance with authority provided in Title 18, U.S. Code, Section 3621, and the authority delegated to me by the Director of the Bureau of Prisons, I hereby order transfer of:

Name of Inmate		Register No.
COLBY, Barry Clark		03901-036
From (Name of Institution and Location)		
FMC Devens, 42 Patton Road, Ayer, MA 01432		
To (Name of Institution and Location)		
Pharos House, 5 Grant Street, Portland, ME 04101		
Reason for Transfer		Transfer Code
Transfer to CCC		276
Parole Status	Custody Classification	
N/A	Medium/IN (Community effective 05-20-05)	
Health Status	Central Inmate Monitoring Case	
Regular Duty; No medical Restriction	<u>XXX</u> No	
Fit for travel	____ Yes-CIM Assignment	
Signature of Transferring Authority	Title of Transferring Authority	Date
David L. Winn 	Warden	4/18/05

RETURN OF SERVICE - Pursuant hereto, I have this ____ day of ____, 20__, executed the above order and committed the inmate to the institution indicated.

Signature	Name
Title	Agency

For transfer to CTC's, complete the following:

Projected release date	Type of release
11-10-05	Good Conduct Time Release
Scheduled date and time of departure	Scheduled date and time of arrival
<u>LV FMC Devens, MA on 05-20-05 at 10:00 a.m. via daughter's POV (Christine Thibeau) to Portland, ME. Arrive at CCC no later than 2:00pm.</u>	<u>Arrive at CCC, Portland, ME on 05-20-05 no later than 2:00pm</u>

Record Copy - J & C; Copy - Central File

(This form may be replicated via WP)

Replaces BP-399(58) of OCT 88

Sensitive Limited Official Use Only

Exhibit T

David Dwyer - Re: Fwd: Colby, Barry 03901-036

Page 1

From: Dawn Adams
To: Dwyer, David; Hufnagel, Regina; Patterson, Nancy L.
Date: Mon, May 16, 2005 3:32 PM
Subject: Re: Fwd: Colby, Barry 03901-036

If he has an active warrant and they plan on picking him up- deny his placement.

Dawn Adams
Case Management Coordinator
FMC Devens, MA
(978) 796-1106
(978) 796-1053 Fax

>>> David Dwyer 5/16/2005 9:11:50 AM >>>

It looks like they are planning on arresting him upon his arrival to Maine not when he releases from the CCC. What do you want me to do? It is a requirement for them to get their pictures and/or fingerprints done upon arrival. When the USM sees the warrant he will most likely be arrested.

David Dwyer
Federal Bureau of Prisons
Community Corrections Manager - Boston
JFK Federal Building
Suite 2200
Boston, MA 02203
(617) 565-4293
(617) 565-4297 Fax

David Dwyer - Colby, Barry 03901-036

Page 1

From: <Pharoshouse@aol.com>
To: <DDwyer@bop.gov>
Date: Fri, May 13, 2005 2:00 PM
Subject: Colby, Barry 03901-036

Dave,

A few red flags on Colby..

In looking over Colby's file I see that he has an outstanding warrant for Lincoln County, Maine that has been detained until he returns to Maine. I spoke with the D.A. and he specified that indeed it means when he returns to Maine, not when he releases from Pharos House.

So, I'm concerned, even if Colby informs the D.A. of his arrival, that he'll be arrested by Portland PD when he arrives or when we release him to get his mug shot at the Marshals.

No money to post bail if that should happen.

Also, he's listed as pre-release, should he be Com Cor?

Your thoughts?

Jason

Exhibit U

DEVAE 532*01 *
PAGE 001 OF 001 *

DAILY LOG

* 05-17-2005
* 07:33:42

FUNCTION.....: PRT SELECTION CATEGORY: DST EQ ALL FACL...: DEV
LOG START DATE: 05-16-2005 NEXT/PRIOR: ACT/FUT/HIS: A FORMAT: T
LOG END DATE...: 05-16-2005

REG NO	NAME	FROM	TO	DATE	TIME	TID	TIME
018			DEV MED	05-16-2005	0832	BOPH5	0832
053		DEV LOW		05-16-2005	1002	DEVAJ	1002
036		USM-FLS	LOCAL HOSP	05-16-2005	1112	DEVAM	1113
038		LOCAL HOSP	USM-FLS	05-16-2005	1505	DEVBI	1506
03901-036 COLBY		CBN IDC		05-16-2005	1546	CBNDK	1546
004		MIA SCP	BURL TR NC	05-16-2005	0839	DEVAM	0839
066		W CCC ACT	LOCAL HOSP	05-16-2005	1112	DEVAM	1112
014		LOCAL HOSP	W CCC ACT	05-16-2005	1700	DEVBI	1700
054			W REDES D	05-16-2005	0852	DEVBI	0852
038		DEV SCP	W DESIG D	05-16-2005	1037	CNKDH	1037
051		W DESIG D	DEV SCP	05-16-2005	1337	NERGE	1337
055			W REDES D	05-16-2005	0852	DEVBI	0852
058		DEV LOW		05-16-2005	1015	DEVAJ	1015
038			W CCC ACT	05-16-2005	1043	DEVCF	1043
044		W REDES M	BUT	05-16-2005	0958	BOPHE	0958
050		CBN 1BN	LOCAL HOSP	05-16-2005	0706	DEVAM	0706
045		LOCAL HOSP	CBN 1BN	05-16-2005	1043	DEVBI	1043
083		W DESIG M	DEV MED	05-16-2005	0748	BOPHC	0748
		W DESIG M	DEV MH	05-16-2005	1032	BOPHG	1032
		DEV MH		05-16-2005	1008	DEVAJ	1008
			W CCC ACT	05-16-2005	1033	DEVCF	1033
			W CCC ACT	05-16-2005	1042	DEVCF	1042

Removed from Pharos House
CCC placement

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Exhibit V

STATE OF MAINE
LINCOLN, SC

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. 87-481

STATE OF MAINE

V.

BARRY COLBY

*
*
*
*
*
*

**MOTION TO RECALL
ARREST WARRANT
AND ISSUE SUMMONS**

RECEIVED AND FILED
LINCOLN COUNTY SUPERIOR COURT
AUG 29 5:55
SHARON BRIDGEMAN
CLERK

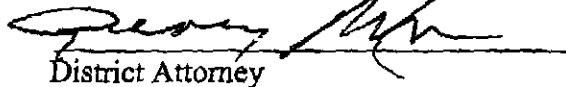
The State of Maine moves that this honorable court order that an arrest warrant issued on or about August 30, 1999, and later reissued, be recalled and a summons be issued in place of that warrant, for the following reasons:

1. Subsequent to issuance of the warrant the defendant was convicted in United States District Court and committed to a federal prison;
2. Defendant was transported outside Maine despite the existence of the outstanding warrant in this case;
3. Under federal prison policy once an inmate is in their custody outstanding probation violations in state court may not be addressed until completion of the federal sentence. The inmate may not be returned to a requesting state pursuant to the legal procedures applying to untried charges;
4. Although the defendant is not eligible to be returned to Maine for hearing on the motion to revoke probation until completion of his sentence, he is eligible for early release to a half-way house in Portland. The undersigned agreed to withdraw the detainer lodged at the federal prison so that the defendant could be released to the half-way house (see attached letter);
5. The United States Bureau of Prisons subsequently determined that the defendant could not be transferred to the half-way house because the state court warrant still existed; the defendant continues to remain in federal custody;
6. The defendant will be on federal supervised release after completion of his federal prison term and under the regular supervision of a federal probation officer; there is relatively little risk he will abscond from the state court proceeding if the warrant is recalled and a summons is substituted;
7. On information and belief, the undersigned believes the defendant joins in this motion

since he has been seeking to have the warrant recalled so that he may be released to the half-way house;

WHEREFORE, the State of Maine moves that the warrant be recalled and a summons issued requiring that the defendant appear in Lincoln Superior Court, Wiscasset, Maine on December 1, 2005 At 8:30 a.m.

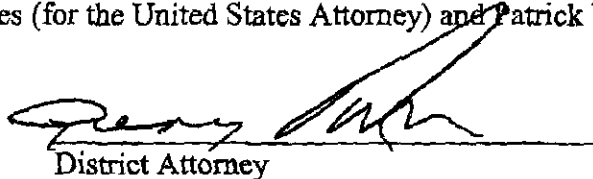
8/29/05
Date


District Attorney

CERTIFICATE OF SERVICE

A copy of this motion has been mailed to the defendant at his last known address, FMC Devens, P.O. Box 879, Ayer, Mass. 01432, and to the attorneys involved in a federal Habeas Corpus Action: Gina Walcott-Torres (for the United States Attorney) and Patrick Ward (for the Bureau of Prisons).

8/29/05
Date


District Attorney


8/31/05 granted.


Exhibit W

STATE OF MAINE

SUPERIOR COURT

LINCOLN, ss.

Docket No. WISSC-CR-1987-00481

STATE OF MAINE

v.

BARRY C COLBY

218 PARK AVENUE

PORTLAND ME 04112

SUMMONS

(for Hearing)

M.R.Crim.P. 4(b))

D.O.B : 03/22/1950

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to appear before the LINCOLN SUPERIOR COURT at HIGH STREET, WISCASSET ME 04578 on 12/01/2005 for a HEARING - PROBATION REVOCATION at 08:30 to answer charge(s) of :

001 AGGRAVATED ASSAULT

Class B , Title 17-A M.R.S.A. SEC.208(1)(B)

Date: 09/02/2005

Sharon Simpson
Clerk of Courts

MANNER OF SERVICE

A copy of this summons was

☐ delivered in hand to defendant by me at _____, _____, Maine, on _____.

☐ left by me on _____, at defendant's (dwelling) (usual place of abode) with _____ whose age is _____ years, a person of suitable age and discretion who is a resident there. The address of defendant's (dwelling) (usual place of abode) is _____, _____ Maine.

☒ mailed by me to defendant by depositing it in the United States mail on 09/02/05, with first class postage prepaid, addressed to defendant's last known address, which is FEDERAL MEDICAL CENTER, AYER MA 01432

Date: 09/02/05

Sharon Simpson
Authorized officer

Agency: Lincoln County Superior Court

A TRUE COPY

ATTEST: _____
Clerk

Exhibit X



Program Statement

OPI: CPD
NUMBER: 7310.04
DATE: 12/16/98
SUBJECT: Community Corrections
Center (CCC)
Utilization and
Transfer Procedure

1. PURPOSE AND SCOPE. To provide guidelines to staff regarding the effective use of Community Corrections Centers (CCCs). This Program Statement defines placement criteria for offenders, requires that staff members start the placement process in a timely manner, and defines the circumstances when inmates may refuse Community Corrections (CC) programs. It also establishes an operational philosophy for CCC referrals that, whenever possible, eligible inmates are to be released to the community through a CCC unless there is some impediment as outlined herein.

CCCs provide an excellent transitional environment for inmates nearing the end of their sentences. The level of structure and supervision assures accountability and program opportunities in employment counseling and placement, substance abuse, and daily life skills.

One reason for referring an inmate to a CCC is to increase public protection by aiding the transition of the offender into the community. Participating in community-based transitional services may reduce the likelihood of an inmate with limited resources from recidivating, whereas an inmate who is released directly from the institution to the community may return to a criminal lifestyle. While clearly dangerous inmates should be separated from the community until completing their sentences, other eligible inmates should generally be referred to CCCs to maximize the chances of successful reintegration into society.

Finally, the scope of this Program Statement has been extended to include CCC consideration/placement of District of Columbia Department of Corrections inmates.

When the Unit Team has concerns regarding the appropriateness of a CCC placement (such as criminal history, severity of current offense), procedures will be followed according to Section 10.i.(2), Limitations on Eligibility for All CCC Referrals.

The following CCC referral guidelines apply in addition to the guidelines provided for regular referrals:

(1) The inmate must be pregnant upon commitment with an expected delivery date prior to release.

(2) The inmate or guardian must assume financial responsibility for the child's care, medical and support, while residing at the CCC. Should the inmate or the guardian be unable or unwilling to bear the child's financial cost, the inmate may be transferred back to her parent institution.

(3) An inmate who becomes pregnant while on furlough, or has more than five years remaining to serve on her sentence(s), or plans to place her baby up for adoption shall not be referred for MINT placement.

Referrals to CCMs should state a specific date of placement. This date should be approximately two months prior to the inmate's expected delivery date.

The CCC's Terminal Report should fully describe the inmate's experience in, and reaction to, the MINT Program. It should also summarize counseling received in the program and include follow-up medical or program recommendations for the institution to facilitate the inmate's transition.

Inmates in need of foster care placement assistance shall be referred to the institution social worker, or if the institution does not have a social worker, staff shall contact a social worker in the community for foster care placement assistance.

10. LIMITATIONS ON ELIGIBILITY FOR ALL CCC REFERRALS. Inmates in the following categories shall not ordinarily participate in CCC programs:

a. Inmates who are assigned a "Sex Offender" Public Safety Factor.

b. Inmates who are assigned a "Deportable Alien" Public Safety Factor.

c. Inmates who require inpatient medical, psychological, or psychiatric treatment.

d. Inmates who refuse to participate in the Inmate Financial Responsibility Program.

e. Inmates who refuse to participate, withdraw, are expelled, or otherwise fail to meet attendance and examination requirements in a required Drug Abuse Education Course.

f. Inmates with unresolved pending charges, or detainers, which will likely lead to arrest, conviction, or confinement.

g. Ordinarily, inmates serving sentences of six months or less.

h. Inmates who refuse to participate in the Institution Release Preparation Program.

i. Inmates who pose a significant threat to the community. These are inmates whose current offense or behavioral history suggests a substantial or continuing threat to the community.

Examples are inmates with repeated, serious institution rule violations, a history of repetitive violence, escape, or association with violent or terrorist organizations.

To determine whether an inmate poses a significant threat, a number of factors must be considered. The key consideration is public safety when assessing the inmate's proclivity for violence or escape against their placement needs.

A waiver of the Public Safety Factor is not required for inmates transferred via unescorted transfer to CCC placements.

Ordinarily, inmates with a single incident of violence should not automatically be excluded from CCC placement. As noted earlier, clearly dangerous inmates should be excluded from CCC placement.

(1) When there exists a basis for significant doubt regarding whether the inmate currently poses a threat to the community, the Warden should consider contacting the Chief USPO in the release district (see the Sample letter (Attachment A)) to seek guidance on the referral's appropriateness. A copy of this letter shall be maintained in the Inmate Central File.

(2) When an inmate is excluded under this subsection, a memorandum, signed by the Warden, shall be prepared and placed in the Inmate Central File to explain the rationale for exclusion from CC Programs.

j. Inmates whose admission and release status is pretrial, holdover, or detainee.

11. REFUSALS. When an eligible inmate refuses CCC placement, staff shall investigate the inmate's reasons. Staff may honor an inmate's refusal of CCC placement.

Suitable reasons to decline placement might include previous CCC failure, potential conflict with other residents, and location or remoteness from release residence. When the inmate does not present a suitable reason, and the unit team believes that a placement would serve a correctional need, the unit team shall make every effort to encourage participation.

When an inmate refuses placement, a memorandum, signed by the Associate Warden (Programs) and the inmate, shall be placed in the Inmate Central File. The memorandum should document the inmate's rationale for refusal and all unit team effort to encourage participation.

12. CCC REFERRAL PROCEDURES. Normally 11 to 13 months before each inmate's probable release date, the unit team shall decide whether to refer an inmate to a Community Corrections program.

Medical staff shall notify the inmate's Case Manager promptly when a pregnancy is verified. Upon notification, the unit team shall decide if a MINT referral to a Community Corrections program will be made.

a. Referral to CCM. Staff shall use the Institution Referral form (BP-210) (Attachment B) when referring an inmate for transfer to a CCC. Information included in the Additional Information (11) and Specific Release Preparation Needs (12) sections must be as specific as possible regarding the inmate's needs.

Attachment B contains instructions for completing the Institution Referral form and related materials. Signed copies of the "Community Based Program Agreement" must be included with all CCC referrals. The Warden is the final decision-making authority for all CCC referrals the unit team recommends.

If the Warden approves the CCC referral, the unit team shall forward two copies of the Institutional Referral form and appropriate attachments to the CCM. Staff shall enter the DST SENTRY assignment of "W CCC ACT." Copies of appropriate documents are prepared so that one may be forwarded to the CCC while the CCM retains the other for reference.

Exhibit Y

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: David Dwyer, CCM JFK Federal Building, Suite 2200 Boston, MA 02203		FROM: David L. Winn, Warden	
Inmate Name COLBY, Barry Clark		Register Number 03901-036	Date September 9, 2005
Unit Manager/Mail ID Nancy Patterson		Institution (Address and Phone Number) FMC Devens P.O. Box 880 Ayer, MA 01432 (978) 796-1000	
1. Release City: Portland		Supervision District: District of Maine	
2. Anticipated Release Date November 10, 2005	Method Good Conduct Time	Verified by (ISM Staff) Steve Gagnon, ISM	
3. Recommended (only one): a. Range or b. Date October 13, 2005 (home confinement)		4. If a presumptive parole case, enter the date the pre-release record review progress report was submitted to the Parole Commission: <u>N/A</u>	
5. Statutory Interim Hearing Scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Waived	6. Supervised Release <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Parole Term <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
7. Aftercare Supervision <input checked="" type="checkbox"/> Drug <input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Mental Health <input type="checkbox"/> Other			
8. CIM Case: Yes <input checked="" type="checkbox"/> No		Assignment: N/A	
As CMC, I have reviewed the Request for Activity Clearance (404) and the SENTRY CIM Clearance and Separatee Data and I recommend the inmate be considered for CCC placement and clearance be granted by the Warden. <input type="checkbox"/> Yes <input type="checkbox"/> No Signature of CMC _____ Upon signature of the Warden, I will update SENTRY to reflect CCC referral for range/date as listed in item 3 above.			NOTE: The CMC will update SENTRY to reflect specific dates and CCC location code upon notification of acceptance from the CCM.
9. If proposed District of Supervision differs from Sentencing District, has USPO approved? Yes No <input checked="" type="checkbox"/> N/A		10. Does inmate have a financial obligation? Yes <input checked="" type="checkbox"/> No If yes, indicate type and how obligation will be paid in item 12.	
11. Additional Information, including status of any detainees or pending charge(s) and whether there is a substance abuse history. Mr. Colby had an outstanding warrant for a probation violation in Lincoln County Superior Court in Wiscasset, Maine. The warrant has been removed by District Attorney Geoffrey Rushlau. A summons has been issued requiring Mr. Colby appear in Lincoln Superior Court on December 1, 2005, at 8:00 a.m. to respond to the open probation violation. Mr. Colby has a substance abuse history. His drugs of choice are cocaine and cocaine base.			
12. Specific release preparation/Pre-natal care needs. Mr. Colby requires universal precautions and has been diagnosed with Hepatitis and polysubstance abuse by history. Currently, he is in the process of applying for social security disability with the assistance of an institution social worker. To aid his reintegration in the community, the Unit Team is recommending Mr. Colby receive a Community Corrections Center placement (home confinement) date of October 13, 2005.			
13. For MINT Referrals, Date of Delivery:		14. (a) For MINT Referrals, Projected Date of Return to Parent Institution: (B) Proposed guardian:	

TO BE FORWARDED WITH THE REFERRAL FORM	NO. COPIES	TO BE FORWARDED TO THE REGIONAL TSM	NO. COPIES
BP-S210, Referral Form	2	BP-S210, Referral Form	1
Current Progress Report	2	Current Progress Report	2
Pre-sentence Report/Violation Report	2	Treatment Summary and Referral Form	2
Community Based Program Agreement	2	Drug Abuse Treatment Programs Agreement to Participate in Community Transition Programming	2
BP-339 CIM Case Information Summary (Non-Separation Cases)	1		
USPO Acceptance Letter	2		
Copy of Latest Notice of Action	2		
BP-351 Medical Evaluation for Transfer of Inmates to CCC Type Facility	2		
Judgment & Commitment Order	2		
Statement of Responsibility	2		

* If the inmate has a diagnosed, ongoing medical condition, such as diabetes or coronary disease, send any pertinent medical records.

Record Copy - CCM; Copy - Institution File; Copy - USPO Sentencing District; Copy USPO District of Supervision
 (This form may be replicated via WP) This form replaces BP-210 November 1995

Exhibit “Z”

Inmate Profile

03901-036 REG
REGNO: 03901-036 FUNCTION: DIS DOB/AGE.: 03-22-1950 / 55
NAME.: COLBY, BARRY CLARK R/S/ETH.: W/M/O
RSP.: DEV-DEVENS FMC MILEAGE.: 101 MILES
PHONE: 978-796-1000 FAX: 978-796-1118
PROJ REL METHOD: GOOD CONDUCT TIME RELEASE FBI NO.: 865697G
PROJ REL DATE.: 11-10-2005 INS NO.: N/A
PAR ELIG DATE.: N/A SSN.: 005525907
PAR HEAR DATE.: PSYCH: NO DETAINER: NO CMC.: NO
FACL CATEGORY - - - - - CURRENT ASSIGNMENT - - - - - EFF DATE TIME
DEV ADM-REL A-DES DESIGNATED, AT ASSIGNED FACIL 01-12-2005 0846
DEV CASEWORKER CSW J1 R. HUFNAGLE, EXT. 1343 01-12-2005 0846
DEV QUARTERS J01-126U HOUSE J/RANGE 01/BED 126U 02-01-2005 1934
DEV UNIT J CC N. PATTERSON, U/M EXT. 1341 01-12-2005 0846
DEV WRK DETAIL J UNIT ORD J UNIT ORDERLY 01-12-2005 0846
OFFN/CHG RMKS: PWID COCAINE BASE-80MO CBOP & 5YRS S/R
OFFN/CHG RMKS: (00-CR-14-P-H)

G0002 MORE PAGES TO FOLLOW . . .

03901-036 REG
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NAME.: COLBY, BARRY CLARK R/S/ETH.: W/M/O
RSP.: DEV-DEVENS FMC MILEAGE.: 101 MILES
PHONE: 978-796-1000 FAX: 978-796-1118

FACL	CATEGORY	- - - - -	CURRENT ASSIGNMENT	- - - - -	EFF DATE	TIME
DEV	ADM-REL	A-DES	DESIGNATED, AT ASSIGNED FACIL		01-12-2005	0846
DEV	CARE LEVEL	CARE4	MRC CARE REQUIRED		01-10-2005	0959
DEV	COR COUNSL	CCC J1	T. VILES, EXT.1345		01-12-2005	0846
DEV	CASE MGT	PROG RPT	NEXT PROGRESS REPORT DUE DATE		01-29-2008	1417
DEV	CASE MGT	RPP COMPLT	RELEASE PREP PGM COMPLETE		07-26-2005	1539
DEV	CASE MGT	RPP UNT C	RELEASE PREP UNIT PGM COMPLETE		11-22-2004	1411
DEV	CASE MGT	V94 CDA913	V94 CURR DRG TRAF ON/AFT 91394		06-07-2000	1845
DEV	CASE MGT	V94 PV	V94 PAST VIOLENCE		06-07-2000	1845
DEV	CORR SVCS	RAN NEG	RANDOM DRG TST-NEGATIVE		10-11-2003	0814
DEV	CASEWORKER	CSW J1	R. HUFNAGLE, EXT. 1343		01-12-2005	0846
DEV	CUSTODY	OUT	OUT CUSTODY		07-26-2005	1529
DEV	DIAGNOSIS	MS CHRON	MED/SURG CHRONIC OUTPATIENT		01-10-2002	1520
DEV	DRUG PGMS	DRG E COMP	DRUG EDUCATION COMPLETED		08-29-2000	0836
DEV	DRUG PGMS	DRG I RQ J	DRG INTRV REQD: JUD RECOMMEND		06-07-2000	1840

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PHONE: 978-796-1000 FAX: 978-796-1118

FACL	CATEGORY	- - - - -	CURRENT ASSIGNMENT	- - - - -	EFF DATE	TIME
DEV	<u>DESTINATION</u>	CBN 1DC	PHAROS HOUSE	PORTLAND ME	10-11-2005	1519 ←
DEV	EDUC INFO	ESL HAS	ENGLISH PROFICIENT		06-12-2000	0001
DEV	EDUC INFO	GED HAS	COMPLETED GED OR HS DIPLOMA		06-12-2000	0001
DEV	FIN RESP	COMPLT	FINANC RESP-COMPLETED		04-02-2001	1131
DEV	LEVEL	MINIMUM	SECURITY CLASSIFICAT'N MINIMUM		07-26-2005	1528
DEV	MED DY ST	NO F/S	NO FOOD SERVICE WORK		06-07-2000	1429
DEV	MED DY ST	REG DUTY W	REGULAR DUTY W/MED RESTRICTION		01-15-2002	1413
DEV	PGM REVIEW	OCT	OCTOBER PROGRAM REVIEW		10-25-2005	1709
DEV	QUARTERS	J01-126U	HOUSE J/RANGE 01/BED 126U		02-01-2005	1934
DEV	RELIGION	PROTESTANT	PROTESTANT		06-07-2000	1853
DEV	UNIT	J CC	N. PATTERSON, U/M EXT. 1341		01-12-2005	0846
DEV	WAITNG LST	COMP I A&O	COMPLETED INSTITUTION A&O		01-24-2002	1526
DEV	WAITNG LST	COMP U A&O	COMPLETED UNIT A&O		01-22-2002	0856
DEV	WAITNG LST	MAIL	NEWSPAPERS		08-06-2002	1151

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PHONE: 978-796-1000 FAX: 978-796-1118
FACL CATEGORY - - - - - CURRENT ASSIGNMENT - - - - - EFF DATE TIME
DEV WAITNG LST SIS POB SIS POB 10-23-2002 1330
DEV WRK DETAIL J UNIT ORD J UNIT ORDERLY 01-12-2005 0846

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

Exhibit “Z”

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